

**STATE OF MONTANA
DEPARTMENT OF COMMERCE
BUSINESS RESOURCES DIVISION**

**BIG SKY ECONOMIC DEVELOPMENT TRUST FUND
2007 APPLICATION GUIDELINES**

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INTRODUCTION

The Big Sky Economic Development Trust Fund (BSTF) program is a state-funded program created by the 2005 Legislature. It is designed to aid in the development of good paying jobs for Montana residents and promote long-term stable economic growth in Montana.

These application guidelines explain how local governments, Certified Regional Development Corporations (CRDCs) and other eligible economic development organizations can apply for Big Sky Economic Development Trust Fund financial assistance. Potential applicants are encouraged to read the guidelines and then contact Big Sky Economic Development Trust Fund staff to discuss program requirements and project eligibility.

The Montana Department of Commerce does not discriminate on the basis of disability in admission to, access to, or operations of its program, services, or activities. Individuals, who need aids or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known. Please provide as much advance notice as possible for requests, please contact:

Big Sky Economic Development Trust Fund
Montana Department of Commerce
301 South Park Avenue
PO Box 200505
Helena, MT 59620-0505
Telephone: (406) 841-2792
FAX: (406) 841-2731
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Local governments, Certified Regional Development Corporations and other economic development organizations are encouraged to contact a Department of Commerce Regional Development Officer when developing an economic development project. The Big Sky Economic Development Trust Fund is a very specialized economic development tool with limited resources and the development of most economic development projects require resources from various state and federal programs. The Regional Development Officer serving your area can aide you in identifying and accessing these various state and federal programs.

Department of Commerce Regional Development Officers

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Western Montana
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BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF)

Statement of Purpose

The legislative purpose of the Big Sky Economic Development Trust Fund is to:

- Create good-paying jobs for Montana residents,
- Promote long-term, stable economic growth in Montana,
- Encourage local economic development organizations,
- Create partnerships between the state, local governments, and local economic development organizations that are interested in pursuing these same economic development goals,
- Retain or expand existing businesses, and
- Provide a better life for future generations through greater economic growth and prosperity in Montana.

Program Funding

On July 1, 2005, \$20 million was transferred from the coal severance tax permanent fund to the Big Sky Economic Development Trust Fund (BSTF). In addition, a portion of the total coal severance taxes collected annually is deposited into the BSTF. Earnings (interest only, not principal) from the BSTF are available for financial assistance to local governments and economic development organizations through application to the Department of Commerce (Department).

The BSTF program is designed to provide financial assistance in the following two categories:

Category I: 75% of BSTF earnings shall be awarded to local governments in the form of grants and loans for economic development projects.

Category II: 25% of BSTF earnings shall be awarded to CRDCs and other eligible economic development organizations in the form of grants for economic development planning.

Please contact program staff concerning funding availability. Applications will be reviewed on a **quarterly** basis.

Application Deadlines

The Department will establish and announce funding availability for both categories:

Applications will be accepted throughout the year on a **quarterly** basis with application deadlines of March 31st, June 30th, September 30th and December 31st unless otherwise specified by the Department, until all available funds are committed to approved projects. Applications will be reviewed based upon the criteria provided in these guidelines.

CATEGORY I: ECONOMIC DEVELOPMENT PROJECTS

Summary

Statutory requirements for Category I funding include **net new, full-time job creation** and a \$1 for \$1 match requirement.

Total program financial assistance to a local government for an economic development project may not exceed **\$5,000 for each new eligible job to be created**. This amount breaks down into **\$4,750 for business assistance and up to \$250 for grant administration per net new eligible job created**. Project funding ceilings will be determined by the availability of funding and the quality of the project proposed.

Contact the Department for more information concerning job eligibility and current average weekly wage thresholds.

Projects should be limited to no more than **two (2) years** unless otherwise approved by the Department.

The BSTF program is a very specialized economic development tool with limited resources. The BSTF program should not be considered as a sole source of funding for projects when other state or federal programs could be utilized.

Section I – Eligibility

A. Eligible Applicants

Big Sky Economic Development Trust Fund - Category I eligible applicants include:

1. Incorporated cities or towns,
2. Counties,
3. Consolidated governments,
4. Tribal governments (includes any state or federally recognized Indian tribe within the State of Montana), and
5. Public districts or local public entities with the authority to spend or receive public funds.

Special purpose agencies such as CRDCs and other eligible economic development organizations are not eligible to apply directly to the Department for Category I financial assistance; however, local governments are statutorily required to work with an economic development organization on a proposal. **Economic development organizations may be involved in implementing and administering a project by sub-recipient agreement, if the eligible applicant agrees to such an arrangement.**

As determined by the Department, local governments and sub-recipients must have the management capacity to undertake and satisfactorily complete the proposed project and assure proper management of BSTF awards.

The Department shall not make a loan nor award a grant to any individual, organization, or governmental unit that is currently in default of the conditions of any loan or grant contract previously executed by the Department.

B. Eligible Businesses

BSTF earnings will be granted or loaned awarded to local governments for use in efforts to develop economic development projects, through cooperative endeavor with a business, which provides good paying jobs to Montana residents. Eligible businesses shall meet one or more of the following criteria:

1. A basic sector company defined as a company that:
 - a. Generates more than 50% of their total dollar sales from outside Montana,
 - b. More than 50% of their product or services enters into the production of exported products outside of Montana,
 - c. Defined as a "value-adding business" by the Montana Board of Investments,
2. Other business entities that:
 - a. Are engaged in business activities that will provide a significant positive economic impact to the community, region and/or the state beyond the job creation involved,
 - b. Do not compete locally, regionally and/or within the state with existing businesses that would result in a negative impact on competitors in the community, region and/or the state, and
 - c. Provide a service or function that is essential to the locality, region and/or the State of Montana.

NOTE: Eligible businesses must also meet all of the program requirements outlined in these guidelines.

Other business entities, which do not meet the above stated criteria, may be an eligible recipient if it is determined by the Department that the activities that the business is primarily engaged in would have a substantial impact on the economy of a community, region and/or the state.

C. Eligible Uses of Funds

A BSTF grant or loan to a local government may be used by the local government to provide a grant or loan to an eligible business associated with an economic development project that includes, but is not limited to:

1. Workforce training grants for the training of new employees;
2. Infrastructure improvements, (sites and buildings), machinery, equipment and working capital;
3. Relocation costs incurred in connection with moving a business to Montana.

Other uses which do not meet the above stated criteria may be eligible at the discretion of the Department.

*Local governments may utilize a portion of a BSTF grant or loan award for project administration with Department approval. Total project administrative costs reimbursed with BSTF dollars shall not exceed **five (5) percent** of the total BSTF award per project. ***This amount is included in the \$5,000 per new job created.*** This amount breaks down into ***\$4,750 for business assistance and up to \$250 for grant administration per net new eligible job created. (For definition of eligible job, see page 10 A.5.b.i.)****

CRDCs or other eligible economic development organizations associated with the project are also encouraged to make a separate application for BSTF Category II financial assistance for project feasibility studies and other eligible activities associated with the project.

D. Assistance Limitations

Ineligible uses of funds include, but are not limited to:

1. The business receiving BSTF financial assistance cannot transfer or relocate jobs from one part of the state to another part of the state.
2. Typically businesses such as hotels, motels and retail operations will generally be considered ineligible for BSTF financial assistance, except under mitigating circumstances, because of the high likelihood of competition with existing local and regional businesses. Businesses such as hotels, motels and retail operations may be eligible where certain mitigating circumstances exist and support by other competing local businesses can be documented; i.e., a grocery store in a small town in a sparsely populated area where there is no other competition.
3. The Department reserves the right to establish criteria for the recapture of program funds upon any event that violates state law, the public purpose of the program, or any of the grant and/or loan conditions. All recaptured funds must be returned to the Department, unless otherwise specified by the Department.

NOTE: Please contact the Department for questions regarding the eligibility of a proposed business activity before submitting an application to the Department.

Section II – Program Requirements

A. Location Requirement

1. The business receiving BSTF financial assistance must locate or expand at a Montana site.

B. Investment Requirement

1. Total new investment by the local government and/or the business at the Montana site must be equal to or greater than \$1 for every \$1 of BSTF assistance received within the contract period (2 years).
2. A new investment means any investment made at the Montana site by the local government and/or the assisted business associated with the project. An investment made before approval of BSTF financial assistance without the written consent of the Department to incur project costs will not be eligible to satisfy this requirement.
3. The following will not be considered as match:
 - a. Existing assets (Note: Existing assets that are physically relocated to Montana may be considered);
 - b. In-kind services;
 - c. Costs incurred prior to the BSTF financial assistance award date;
 - d. Refinancing of existing debt;
 - e. Projected operating cash flow;
 - f. Existing equity; and
 - g. Existing bank line of credit amounts (Note: Increases in lines of credit contingent upon the receipt of a BSTF award may be considered.)

Section III – Penalties

Local governments and the assisted businesses receiving BSTF financial assistance are liable for the full amount of the award that is advanced by the Department, if the business:

1. Fails to create or maintain the number of net new jobs as specified in the executed contract and assistance agreement; or
2. Fails to inject the required amount of private investment into the project as specified in the executed contract and assistance agreement.

The penalty may be payable in one lump sum or in installments, with or without interest, as the Department deems appropriate.

Section IV – General Application Procedures

Potential applicants are encouraged to contact the Department to discuss their proposed project with BSTF program staff or a Department Regional Development Officer (RDO). BSTF program staff can direct you to the RDO for your area. An RDO must be consulted during the preparation of a BSTF application and BSTF program staff and RDO's will work closely with applicants and sub-recipients to negotiate any changes and resolve issues identified during the preparation of their application.

One hard copy and one electronic copy (Adobe Acrobat .pdf file type preferred) of each application are required for submission:

If unable to produce all application materials in electronic format, please contact BSTF program staff to discuss options.

1. One original of the application must be submitted to:

Big Sky Economic Development Trust Fund
Montana Department of Commerce
Attn: Angela Nelson
PO Box 200505
Helena, MT 59620-0505

2. One electronic copy (Adobe Acrobat .pdf file type preferred) of each application must be e-mailed to the address below or a CD format mailed to the address above (if the file is large):

anelson@mt.gov

Applicants must submit all application materials using the following format, which includes the following information (Please also see **Appendix A** for Category I: **Application Form**):

A. Project Information

Please provide a detailed narrative description of the proposed project for which you are seeking BSTF assistance. Attach as many pages as necessary. The narrative description shall include:

1. A description of the location of the project site (attach any supporting maps).
2. A list of each of the entities, both public and private, that will be involved in carrying out the project and describe their specific roles (property holder, borrower, funding provider, utility provider, job creator, training provider, etc.).

3. A description of each activity that will need to be undertaken in order to implement the project (use of funds) and specify which of the entities involved will be responsible for implementing that activity, and sources of funding for each activity.
4. A matching funds summary that outlines the source, use, terms and their status (on hand, awarded, committed, applied for, etc.) of all funds to be utilized in satisfying the program matching funds requirement.
 - a. Specify the total dollar amount of the new investment by the local government and the new private investment by the business to be made at the project site.
 - i. Total new investment by the local government and/or the business at the Montana site must be equal to or greater than \$1 for every \$1 of BSTF assistance received, within the contract and assistance agreement period.
 - ii. **Maximum total BSTF financial assistance may not exceed \$5,000 for each qualifying net new job to be created.**
 - iii. The applicant must verify all project costs and document how they were determined and by whom (land appraisal, engineer or architect prepared estimates, equipment lists and cost schedules, etc.). The applicant must determine the reasonableness and completeness of the cost estimates (such as the inclusion of Davis-Bacon prevailing wage rates, if applicable).
 - b. Applications must include a written commitment from the local government and the assisted business to make the investments as described above.
5. A job creation summary that outlines:
 - a. The business's current employment levels at the project site and statewide,
 - b. The number and types of **net new full-time eligible jobs** to be created at the project site and their projected gross weekly wages.
 - i. **Eligible job** means a net new full-time position (job) that provides wages that meets or exceeds the current **average weekly wage** of the county in which the employees are to be principally employed.
 - ii. A **full-time** job means a position (job) that provides at a minimum, an average of thirty-five (35) working hours per week on an annual basis.
 - iii. Only **net new** eligible jobs, which the assisted business directly creates in Montana, within the contract and assistance agreement period (2 years), may be counted towards the job creation threshold.
 - c. A breakdown of all the jobs to be created, including the number and type of jobs and their projected gross weekly wages.
 - i. For any jobs involving less than full-time employment (at least 35 hrs per week), include an estimate of the number of hours to be worked each week and the number of months to be worked each year for each job must be included.
 - d. A description of any employee benefits offered by the business (e.g., child care benefits, health and dental benefits, 401(k) plans, defined benefit plans, etc.)
 - e. A timetable for creating the net new eligible jobs and the total number of jobs to be created.
 - f. Schedule for completion of worker training and cost associated with that training.
 - g. Applications must include a written commitment from the business to create the jobs as described above.
6. The impact on the state, regional and community economy. Eligible projects must demonstrate a significant positive economic impact to the community, region and/or the state beyond the job creation involved.
7. Identify if the business associated with the project is competing with local or regional existing businesses and any resulting negative impacts of the project on the local, regional and/or state economy.

8. Identify any services or functions that the business associated with the projects provides that are essential to the locality, region and/or the state.
9. Provide a clear timeline for implementation of the project and achieving the desired result(s) (i.e. job creation, private investment, etc.)
10. Reference all supporting documentation, including maps.

B. Business Information

The following documentation is required from each business receiving BSTF financial assistance and shall be provided on the business's letterhead.

1. The legal name, address and contact information of the business.
2. The company's Federal Employer Identification Number (FEIN).
3. A description of the type of business (what the business does) and its Standard Industrial Classification (S.I.C.) or North American Industrial Classification System (NAICS) code.
4. A statement and supporting documentation concerning the percentage of the business' total dollar sales generated from outside of Montana and the percentage of the business' product or services that enters into the production of exported products outside of Montana.

A current business plan must be submitted by the business receiving the financial assistance, as an attachment, which must contain sufficient information for the Department to obtain an adequate understanding of the business to be assisted, including the products or services offered, estimated market potential, management experience of principals, current financial position, and details of the proposed venture. The application should discuss the source, use, and terms of all funds to be included in the project.

All business plan information and financial exhibits will be considered confidential if listed in the Confidentiality and Non-Disclosure Agreement (Appendix E), for evaluation purposes only, and will not, except as required by law, be provided to any third person, firm, corporation, or public entity not directly involved in the review without the express written consent of the business.

NOTE: The Department may accept a copy of a current loan application to entities such as the Montana Board of Investments to satisfy the conditions in this section.

The business plan must include the following elements and must provide sufficient detail for adequate analysis:

Business Description

Include a description of the company or enterprise and an explanation of the products or services offered.

Management

Provide the names, titles, and resumes of each principal to be responsible for the management of the business.

Market

Discuss the present or proposed market area and share, with future projections, and provide an explanation of how the information was developed (for example, market surveys). Document any identified potential markets (for example, contracts, letters, or other evidence of interest in the product(s) by potential buyers or distributors), especially if sales projections show annual increases exceeding 25%.

Sources and Uses of All Funding

This section of the application should discuss the source, use, and terms of all funds to be included in the project. A description of all aspects of the proposed assistance (i.e., loan terms, security, etc.), and the rationale for each must be included with the application. A narrative explanation/justification for the administrative portion of the budget must be attached.

Financial Exhibits

The financial information submitted must demonstrate that the business to be assisted is or will be an ongoing viable company that can achieve and maintain the amount of employment projected.

The business must be able to show that projected cash flow will be sufficient to cover projected debt service and that a positive net worth can be attained. The projections must include a narrative explanation of how the figures and assumptions were derived with special emphasis on any changes in major assumptions from existing conditions (i.e., changes in cost of goods sold and general administrative expenses as a percentage of sales, or if sales increases exceed 25% annually). Special care should be taken to include increased labor costs related to achieving the hiring goals contained in the hiring and training plan.

Financial information is required for all projects, including projects that are for public facilities or employee training.

The business plan must include the following financial exhibits:

Financial Statements

For an existing business, provide financial statements for the 3 most recent years of operation to include the following:

- Balance Sheets
- Profit and Loss Statements
- Cash Flow Statements

Current financial statements compiled or reviewed by an independent certified public accountant, with full disclosure notes, are required for businesses that have been in operation for more than one complete business fiscal year. In addition to the CPA-prepared year-end financial statements, internally prepared interim financial statements will also be accepted. A responsible officer of the business must sign all financial information. Financial statements must also include a current Aging of Accounts Receivable and Payable. There should not be significant gaps (not more than 90 days) between the historical statements and the projected statements. The projections should use the same fiscal year periods as the historical financial statements. Applications that contain appropriate, updated, accurate financial information can be processed much more quickly than incomplete applications that require Department requests for additional information.

Projections

Provide the following projections for two years:

Pro-forma Balance Sheet

- Balance Sheets
- Profit and Loss Statements
- Cash Flow Statements

Earnings projections must include a projected monthly cash flow analysis for at least one year and until the break-even point is projected to be reached by the business. For a business that experiences regular or occasional cyclical variations in cash flow, provide a narrative explanation of the reason(s) for the occurrence of the cycles. Also, explain the effect, if any, on the business's ability to meet its debt obligations identified in the existing and projected debt schedules.

Debt Schedule

Provide descriptions of all existing and projected debts and lenders, annual debt service amounts, and any related loan requirements. Financial statements should include current maturities of long-term debt and adjusted principal balances. All debt sources must be identified independently and not combined into one long-term debt number on the balance sheet. Principal and interest payments for at least three years should be included for all sources.

Working Capital Needs

Provide information on working capital needs and verify through cash flow projections, explaining changes in inventory and receivables.

Requirements for Business Owners with a 20% or Greater Ownership

Personal Financial Statements and tax returns are generally required for all owners with 20% or more ownership in the business to be assisted. The Department also requires personal or corporate income tax returns for all affiliated businesses. Personal guarantees may be required of owners with a 20% or more ownership at the discretion of the loan review committee.

Personal Credit Check Release

The principal owners of the business, as defined above, must provide a release allowing for a personal credit history check by the Department as part of the application review.

Applicants should include any other information that may be helpful in documenting the economic viability of the project.

Private Sector Commitments

Applicants must provide firm commitment letters from any private sector lenders or investors involved in the project. Such commitments should be binding, contingent only upon receipt of BSTF financial assistance. All terms and conditions that apply to each funding source must be submitted as part of the application.

Applications that include a loan guarantee from the Small Business Administration must include the letter of authorization from the SBA that contains the terms and conditions that apply to the loan. Terms and conditions for proposed debentures must be included. Letters of commitment from investors, owners and/or others providing assistance must be submitted with the application and must:

- Be on a letterhead of the firm and signed by an official of the firm authorized to commit the organization;
- Provide a clear statement of the firm's concept of the project (i.e., location, scope and cost);
- Specify the nature of the commitment (e.g., the amount of private commitment, amount of borrower's commitment, type and size of the project, number of jobs to be created, and commitment to hire low and moderate-income individuals);
- State a willingness of the firm to sign a legally binding commitment upon grant award and that the firm has reviewed the grant application and has approved its content. Letters of commitment from private financing institutions must specify the amount and type (for example, interim construction financing) of the loan being provided for the specific activity to be undertaken. The commitment should be binding, contingent only upon receipt of BSTF financial assistance.

The Department reserves the right to request additional information or accept reasonable variations from the information requirements listed on a case-by-case basis if necessary to make a funding decision.

C. Certifications for Application

Each local government, the assisted business and any sub-recipient applying for BSTF financial assistance must agree to comply with all of the requirements set out in these guidelines, in implementing their proposed BSTF project, if selected for funding. **Businesses considering BSTF assistance should**

analyze the regulations that will apply to them at the beginning of negotiations. The local government, assisted business and any sub-recipient(s) must each have the “**Certification for Application**” (page A-5 of the Application Form found in Appendix A) signed by an official who is duly authorized to sign the application and make a certification on its behalf. **Local governments and businesses should carefully review these requirements and consider their potential impact when designing their BSTF project.**

D. Other Information

Please provide any other background information pertinent to the project that might assist the Department in making an informed decision. Local governments are obliged to disclose any information that could reflect negatively on the project.

NOTE: The Department reserves the right to request additional information if needed during the review period, especially if the project contains unique items that may require different information than requested above.

Section V – Review of Applications

To determine the merit of each application and the proposed uses of funds, the Department Grant Review Committee (Committee) will review all applications from eligible applicants and will make recommendations to the Director of the Department, who will make the final decision concerning funding awards.

Applications that are received and accepted as complete, and have received staff analysis and recommendations, will be submitted to the Committee at the next **quarterly** Committee meeting. Applications will be reviewed by the Committee, and will be funded, if approved by the Committee and the Director.

A letter of tentative award will be sent to the applicant stating the funding amount and any conditions that apply. The date of the funding decision by the Committee will be the beginning date of the BSTF contract and assistance agreement term

Applicants should also be aware that in most cases, it may take several months or more before any funds will actually be disbursed to the business after the decision to award a grant has been made. This delay occurs because several activities must take place before funds can be released. For example, the assistance agreement between the local government and the assisted business and the contract between the local government and Department must be prepared and all the details for assuring proper management of the project and expenditure of program funds must be finalized.

The following criteria may be used to determine the merit of each application:

1. Economic impact of the project, which may include the following factors:
 - a. Number of direct new jobs that will be created by the project,
 - b. The wages of those jobs,
 - c. The total payroll for the project,
 - d. Number of induced, short-term, project-related jobs expected to be generated by the project as well as the number of long-term permanent jobs expected to be created indirectly in the economy as a result of the project,
 - e. Economic circumstances of the local community, county and region, including the extent to which the project will serve to mitigate unemployment, and
2. Creation of quality jobs, which may include the following factors:
 - a. Wage level and status of the jobs to be created,

- b. Quality and value of benefits offered by the business (e.g., child care benefits, health and dental benefits, 401(k) plans, defined benefit plans, etc.),
- c. The extent of training programs offered by the business, and
- d. The sustainability of the jobs in the future.

The quality of the project, which may include the following factors:

- a. Nature of the industrial classification of the project and of the business undertaking it,
- b. Long-term prospects for growth at the project site or sites,
- c. Long-term prospects for growth of the business within Montana,
- d. Financial stability of the business associated with the project,
- e. The total new private investment at the Montana project site of the business associated with the project,
- f. The total financial investment in the project by the local government,
- g. Project readiness,
- h. Project feasibility, and the
- i. Reasonableness of cost estimates

Special consideration may be given to a business that:

- 1. Locates or expands in rural areas and/or areas that have experienced sudden and severe economic disruptions;
- 2. Creates a relatively large number of eligible jobs;
- 3. Has agreed to negotiate special hiring arrangements for disadvantaged and/or lower income persons in connection with a project;
- 4. Brings an exceptional new technology to the state; and
- 5. Are recognized as a national or international leader in its industry.

The above stated criteria are designed to assist the Department in making its decision and only constitute minimum standards. Additional factors may be considered depending on the nature of particular projects and their relative merit compared to competing proposals, and depending on the availability of funding at the time of application.

Section VI – General Procedures for Accessing Funds

A. Award Letter

- 1. The Department, upon approval of the funding request by the Director, will mail an award letter to the applicant notifying them of the BSTF commitment and the terms and conditions of that approval.

B. Agreements

The appropriate contracts for an award will be a Department approved assistance agreement between the local government and the assisted business that includes the performance criteria necessary for funds to be released or expended and a contract between the local government and the Department.

The Department will have basic forms for these agreements, although performance criteria for specific agreements will vary.

1. **Assistance Agreement: A sample format (Appendix G)** of the assistance agreement between a local government and an assisted business associated with a particular project will be provided by the Department and may include, but is not limited to, the following:
 - a. A commitment to create the agreed-upon level of **net new** eligible jobs, and the lengths of time those jobs must be sustained to receive funds or to avoid an obligation to reimburse the Department.
 - b. Requirements that the assisted business maintain existing jobs in Montana.
 - c. A commitment by the assisted business to make the required investment, at the agreed-upon location in Montana, within two years (see page 6, Category I, 3).
 - d. An obligation to provide proof of any new jobs created, existing jobs retained, and/or new investment made.
 - e. The conditions with which the assisted business must comply to receive the benefits of awards made to local governments under the program.
 - f. The terms under which an assisted business will be deemed to have met or failed to meet the terms of a commitment.
 - g. The terms and procedure by which any previously disbursed funds may be recaptured by the local government or the Department under circumstances in which the assisted business has ultimately failed to meet its commitments.
 - h. A right on the part of the Department and Legislative Auditors or local government to inspect all records that may be used to confirm compliance with terms of any agreements.
 - i. The assisted business will certify that they will not discriminate against any employee or against any person seeking employment because of race, religion, color, handicap, national origin, age, or sex.
2. **Local Government Contract:** The basic form of the contract between a local government and the Department will be prescribed by the Department and may include the following:
 - a. An agreement to comply with the terms of the local government's application.
 - b. An agreement to take all steps necessary to ensure and establish to the Department that required levels of jobs are created and investments are made and that no funds are disbursed by the local government until any necessary performance criteria have been met.
 - c. An agreement to otherwise reimburse the Department for any funds improperly disbursed.
 - d. The terms under which a local government will be deemed to have met or failed to meet the terms of the contract.
 - e. The terms and procedure by which any previously disbursed funds may be recaptured by the Department under circumstances in which the local government or assisted business has failed to meet its commitments.
 - f. An agreement to permit the Department and Legislative Auditors access to all records necessary to evaluate compliance with Department policies and the program's administrative rules and all agreements executed under them.
 - g. A commitment by the local government to provide matching funds in exchange for the award.

C. Disbursement of Funds

The **Request for Payment Form** (see Appendix L) must be submitted to the Department accompanied by approved documentation verifying eligible costs incurred and the **Job Creation Report and Certification** (see Appendices E and F) to attest that the new jobs meet or exceed the BSTF program eligibility requirements. The Department may request further documentation in a particular case when, in the exercise of its judgment, such documentation is needed to confirm performance.

NOTE: Payment requests generally require 10-15 business days for processing and distributing payment. When funds are expended by the local government, the local government must then submit proof of receipt, deposit, and proper disbursement of the funds.

CATEGORY II: PLANNING GRANTS

Up to \$25,000 per application

Section I – Eligibility

A. Eligible Applicants

Big Sky Economic Development Trust Fund - Category II eligible applicants include:

1. Certified regional development corporations (CRDCs),
2. An economic development organization may be involved in implementing and administering a planning grant project by sub-recipient agreement, if the CRDC agrees to such an arrangement. Please contact the Department for more information concerning sub-recipient agreements.

For CRDC applications that include a draft sub-recipient agreement (**see SAMPLE in Appendix I**) with an economic development organization, the draft sub-recipient agreement must be included with the application. Applications submitted without the draft sub-recipient agreement will not be accepted.

3. Other economic development organizations, which are located in a county that is not part of a CRDC region and which meet program requirements for eligibility.
 - a. To determine the ability of an economic development organization to effectively manage a BSTF award, the organization must attach the following information to their application:
 - i. Evidence the applicant is a nonprofit corporation as provided in Title 35, chapter 2 MCA, that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) or 501(c)(6).
 - ii. A staffing plan that includes current job titles, job descriptions and qualifications of primary personnel.
 - iii. A socioeconomic profile of the community (county, incorporated city or town, or Indian Reservation) that the applicant is providing economic development and business assistance services to and which the proposed planning or capacity building activity will benefit.
 - iv. Evidence of broad-based community support, at the time of submitting the application, that includes written support from the local government (county, incorporated city or town, or tribal government) that the applicant is providing economic development and business assistance services to and which the proposed planning or capacity building activity will benefit.
 - v. A minimum of three references that have received economic development services from the applicant. The references may include state government or universities where the economic development organization, preferably within the last three years, has successfully completed economic development projects and and/or provided business assistance. At a minimum each reference shall include:
 1. The company name that received the services,
 2. The location where the services were provided,
 3. Contact person(s) and information (address, telephone number, etc.), and
 4. A complete description of the service type, and dates the services were provided.

NOTE: These references may be contacted to verify an applicant's ability to deliver economic development and business assistance services. The Department reserves the right to use any information or additional references deemed necessary to establish the ability of the applicant to undertake and satisfactorily complete the proposed activity and assure proper management of program funds. Negative references may be grounds for application disqualification.

- vi. Evidence of financial stability that includes:

1. A copy of the most recent audited or professionally reviewed financial statements of the applicant, including a supplemental schedule or other detailed information to specifically disclose the financial condition and results of operations of the applicant; and
2. A current budget for the current fiscal year that includes a sources and uses of funds;

The Department may request additional information deemed necessary by the Department to evaluate the eligibility of the applicant.

Department staff shall review timely submitted proposals and determine whether to recommend eligibility to an economic development organization.

The Department may not make a grant to any individual, organization, or governmental unit that is currently in default of the conditions of any loan or grant contract previously executed by the Department.

B. Eligible Uses of Funds

Eligible uses of BSTF financial assistance to CRDCs and qualified economic development organizations include the support of the development of:

1. Business Plans;
2. Feasibility Studies;
3. Creation and Maintenance of Baseline Community Profiles;
4. Preliminary Architectural Reports (PAR);
5. Preliminary Engineering Reports (PER); and
6. Site Location Analyses

Other planning activities, which do not meet the above stated criteria, may be eligible on a case by case basis if it is determined by the Department that the proposed activities would have a substantial impact on the economy of a community, region and/or the state.

Funding limitations are placed on BSTF awards to insure maximum effective use. The funding limitations that apply include:

*Total grant awards to a CRDC or other eligible economic development organization should not exceed **\$25,000 per application**. Preferably applicants will request assistance for an amount greater than \$5,000 per application.*

The Department may make awards in amounts above or below the stated limits, if it is determined by the Department that the activities that the CRDC or other eligible economic development organization is proposing could result in substantial impact on the economy of a community, region and/or the state.

C. Assistance Limitations

It is mandatory that the applicant **not incur costs** or obligate funds, which are intended to be reimbursed with BSTF financial assistance, prior to the grant award date, which is the start of the contract term. It should be clear that expenses incurred by the grant recipient before the grant award date are incurred at their own risk.

Please contact the Department for questions regarding the eligibility of proposed activities before submitting an application to the Department.

Section II – General Application Procedures

Potential applicants are encouraged to contact the Department to discuss their proposed planning activity with BSTF program staff. BSTF program staff will work closely with applicants to negotiate any changes and resolve issues identified during the preparation of their application.

One (1) original hard copy and one electronic copy of each application are required for submission:

1. One original of the application must be submitted to:

Big Sky Economic Development Trust Fund
Montana Department of Commerce
Attn: Angela Nelson
PO Box 200505
Helena, MT 59620-0505

2. One electronic copy of the application (Adobe Acrobat .pdf file type preferred) must be e-mailed to the address below or a CD format mailed to the address above (if the file is large):

anelson@mt.gov

Applicants must submit all application materials using the following format (Please also see **Category II Application Form** in **Appendix H**):

1. Description of the planning or capacity building activity,
2. Course of action,
3. Timeline for completion,
4. Budget (see **Appendix K**)
5. Project Cost Breakdown (**see Appendix M**),
6. Letters of local support, and
7. Any required attachments.

*List cash and in-kind contributions to the project separately. Allowable expenses for which the BSTF funds may be used include administrative expenses, which include personnel and operating expenses, **not to exceed 5% of the total award unless otherwise specified by the Department.***

Please provide any other background information pertinent to the proposed activity that might assist the Department in making an informed decision. Applicants are obliged to disclose any information that could reflect negatively on the proposed activity.

NOTE: The Department reserves the right to request additional information if needed during the review period, especially if the proposed activity contains unique items that may require different information than requested above.

Section III – Review of Applications

Applications that are received and accepted as complete, and have received staff analysis and recommendations, will be submitted to the Department Grant Review Committee (Committee) at the next **quarterly** review meeting. Applications will be reviewed by the Committee, and will be funded, if approved by the Committee and the Director.

A letter of tentative award will be sent to the applicant stating the funding amount and any conditions that apply. The date of the funding decision by the Committee will be the beginning date of the contract and assistance agreement term

Applicants should also be aware that in most cases, it generally takes one (1) month before any funds will actually be disbursed after the decision to award a grant has been made. This delay occurs because several activities must take place before funds can be released. For example, the contract between the grantee and Department must be prepared and all the details for assuring proper management of the project and expenditure of program funds must be finalized.

The following criteria may be used to determine the merit of each application:

1. Application's response to an economic development distress or opportunity and potential for the proposed activity to provide for economic development success,
2. Potential job creation as a result of the activity,
3. The potential impact of the proposed activity on the economy of a community, region and/or the state,
4. Amount of state, federal and private funds leveraged,
5. Community and regional economic need, and
6. Potential for the activity to be utilized as a new "best practice" in economic development at the local, regional, state or national level.

Section IV – General Procedures for Accessing Funds

A. Award Letter

The Department, upon approval of the funding request by the Director, will mail an award letter to the applicant notifying them of the BSTF commitment and the terms and conditions of that approval.

B. Agreements

The appropriate agreement for an award will be a contract between the CRDC or other eligible economic development organization and the Department.

The Department will have basic forms for these agreements, although performance criteria for specific agreements will vary.

C. Procurement of Professional Services

If the proposed planning project will require consultant services, the applicant needs to demonstrate that it has or will assure free and open competition in the procurement of professional services, as applicable or has a plan to ensure such competition. All State of Montana and the Department requirements concerning procurement of professional services will apply. For costs associated with professional services to be eligible for reimbursement, the contractor must submit to the Department:

- 1) Summary of the process used to select the consultant
- 2) List of the qualifications of the chosen consultant
- 3) A draft of the contract for professional services (see Appendix N for a Sample Contract for Professional Services)

The CRDC must receive prior written approval from the Department before signing a professional services agreement.

D. Disbursement of Funds

Request for Payment Forms (see Appendix L) must be submitted to the Department accompanied by approved documentation verifying eligible costs incurred by the applicant. The Department may request further documentation in a particular case when, in the exercise of its judgment, such documentation is needed to confirm performance.

NOTE: Payment requests generally require 10 - 15 days for processing and distributing payment. When funds are expended by the CRDC or other eligible economic development organization, the CRDC or other eligible economic development organization must then submit proof of receipt, deposit, and proper disbursement of the funds.

The applicant must maintain full and accurate records with respect to the project and must ensure adequate control over the records of related parties in the project. The Department requires access to such records, as well as the ability to inspect all project work, invoices, materials, and other relevant records at reasonable times and places. The award agreement requires the applicant to furnish, upon request of the Department, all data, reports, contracts, documents, and other information relevant to the project. The award agreement specifies a periodic reporting requirement for the project.

APPENDICES

APPENDICES

- A CATEGORY I: ECONOMIC DEVELOPMENT PROJECT APPLICATION FORM
- B CATEGORY I SAMPLE SUBRECIPIENT AGREEMENT
- C CATEGORY I SAMPLE MANAGEMENT PLAN
- D CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT
- E JOB CREATION REPORT
- F JOB CREATION REPORT CERTIFICATION
- G SAMPLE ASSISTANCE AGREEMENT
- H CATEGORY II: PLANNING GRANT APPLICATION FORM
- I CATEGORY II SAMPLE SUBRECIPIENT AGREEMENT
- J CATEGORY II SAMPLE MANAGEMENT PLAN
- K BUDGET FORM
- L REQUEST FOR PAYMENT FORM
- M TOTAL PROJECT COST BREAKDOWN
- N SAMPLE CONTRACT FOR PROFESSIONAL SERVICES

APPENDIX A

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF) CATEGORY I: ECONOMIC DEVELOPMENT

APPLICATION FORM

Please reference the Application Guidelines for a complete explanation of required application information.

I. APPLICANT INFORMATION - LOCAL GOVERNMENT	
Name of Local Government Entity	
Federal Tax ID Number	
Chief Elected Official (Full Name & Title)	
Contact Person	
Address	
County	
Phone Number	
Email Address	
Fax Number	

II. ASSISTED BUSINESS	
Legal Name of Business to Receive Assistance	
Project Location	
Name of Contact Person	
Address	
Phone Number	
Email Address	
Business NAICS Code	
Business Federal EIN	
Business Project Status (Startup, Expansion, Relocation, etc.)	

III. PROJECT SUMMARY INFORMATION	
Total Project Cost	
Amount of BSTF Funds Requested	
Total Matching Funds	
Type of Project/Eligible Activity	
Senate and House Districts	
Total Number of New Jobs to be Created	
Total Number of New <u>Eligible</u> Jobs	

IV. PARTNER ORGANIZATION(S) / SUBRECIPIENTS (IF APPLICABLE)

Economic development organizations may be involved in implementing and administering a project by sub-recipient agreement, if the eligible applicant agrees to such an arrangement. If a sub-recipient organization is involved in the project, applicant must submit sub-recipient agreement with the application. See Appendix B for a sample.

Name of Contract Person	
Address	
Phone Number	
Email Address	

Name of Contact Person	
Address	
Phone Number	
Email	

V. BRIEF PROJECT SUMMARY

Please provide a brief summary of this proposal which describes the nature of the proposed activity, the nature of the assisted business and what the BSTF financial assistance would be used for. Please also provide any relevant historical information on this project or the region it would support:

Business' Current Employment Level in Montana	
Business' Current Employment Level at the Project Site	
Employee Benefits: <i>Please list benefits and eligibility requirements provided by the Assisted Business</i>	

VI. PROJECT ECONOMIC IMPACT STATEMENT

Please provide a summary of the impact the project would have on the state, regional and community economy as well as any services or functions that the business provides to the locality, region or state.

Please describe any negative impact of the project on the local, regional and/or state economy.

--

VII. ATTACHMENTS

Please attach the following information to your application.

A. Sub-recipient Agreement (if applicable): Attachment # _____
Sample Form can be found in Appendix B

B. Management Plan: Attachment # _____
Sample Form can be found in Appendix C

C. Project Information: Attachment(s) # _____
See page 9-11. A. of the Guidelines

1. Project Site (p9 A.1): Attachment # _____

2. Use of Funds (p9 A.2): Attachment # _____
SAMPLE provided in Appendix M "Total Project Cost Breakdown"
Please also attach copies of letters of commitment for each source of permanent and interim financing.

4. Matching Funds Summary (p10 A.4): Attachment # _____
SAMPLE provided in Appendix M "Total Project Cost Breakdown"
Please provide documentation (letters of commitment or copies of award letters) for other funds that have been committed to this project.

5. Job Creation Summary (p10 A.5): Attachment # _____

6. Project Timeline (p11 A.9): Attachment # _____

7. Supporting Documentation: (p11 A.10): Attachment(s) # _____

D. Business Information

See pages 11-13 of the Guidelines

Sales Generated Outside of Montana (p11 B.4.): Attachment # _____

Business Plan: Attachment(s) # _____
See pages 11-14 of the Guidelines for a list of the elements that must be included in the business plan.

D. Confidentiality Agreement and Affidavit (optional/if applicable): Attachment # _____
SAMPLE provided in Appendix D

E. Project Budget Form: Attachment # _____
Please fill out the attached form found in Appendix K

F. Legal Counsel Name, Address, Phone Number: Attachment # _____

G. Community Support: Attachment(s) # _____

Please attach letters of support from organizations or other businesses in the community.

H. Supporting Documentation: *Attach and Reference all additional supporting documentation.*

Attachment # _____ (Description)

Attachment # _____ (Description)

Attachment # _____ (Description)

VIII. CERTIFICATION BY LOCAL GOVERNMENT AND BUSINESS

As the responsible authorized agents of **(Name of Applicant Community)**, **(Name of Applicant Subrecipient)** and **(Name of Applicant Business)**, we hereby submit this Big Sky Economic Development Trust Fund Application.

The information presented in this application is, to the best of our knowledge, true, complete and accurately represents the proposed project. We understand that additional information and documentation may be required.

(Name of Community) will accept responsibility for management of the project and compliance with Big Sky Economic Development Trust Fund regulations.

(Name of Applicant Subrecipient) will accept responsibility for compliance with applicable Big Sky Economic Development Trust Fund regulations as specified in this application.

(Name of Business) will accept responsibility for compliance with applicable Big Sky Economic Development Trust Fund regulations as specified in this application.

Name _____ Local Government
(typed): _____

Title (typed): _____
Chief Elected Official

Signature: _____ X _____

Date: _____

Name _____ Subrecipient (if applicable)

(typed): _____

Title (typed): _____
Authorized Representative

Signature: _____ X _____

Date: _____

Name _____ Applicant Business

(typed): _____

Title (typed): _____
Authorized Representative

Signature: _____ X _____

Date: _____

APPENDIX B

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND CATEGORY I: ECONOMIC DEVELOPMENT PROJECTS

SAMPLE SUB-RECIPIENT AGREEMENT

THIS AGREEMENT is entered into this ____ day of ____, 20____, by (name of city, town or county), herein referred to as the ("County", "City" or "Town") and (name of economic development corporation), a nonprofit economic development corporation herein referred to as the "Sub-recipient."

WITNESSETH THAT:

WHEREAS, (name of city, town or county) is the recipient of a Big Sky Economic Development Trust Fund (BSTF) grant by the Montana Department of Commerce, Business Resources Division herein referred to as "the Department," and

WHEREAS, the purpose of the grant is to (name activities) for the residents of (name of city, town, county or region), and

WHEREAS, the (County, City or Town), desires to sub-grant the BSTF funds to the Sub-recipient and engage the Sub-recipient to (name activities) on the (County's, City's or Town's) behalf, and

WHEREAS, the Department has required the (County, City or Town) to enter into a Sub-recipient agreement with the Sub-recipient specifying the terms and conditions of the (County's, City's or Town's) delegation of certain BSTF responsibilities to the Sub-recipient, and

WHEREAS, the parties to this Agreement understand that neither of them has in any way, expressly or impliedly, abrogated any of its individual powers, and further agree that this Agreement does not create any new organization or legal entity.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set out in this Agreement, the parties agree as follows:

A. SPECIAL PROVISIONS. The (County, City or Town) agrees, under the terms and conditions of this Agreement, to sub-grant BSTF funds for (name of activities) to the Sub-recipient.

B. INDEPENDENT SUB-RECIPIENT. It is understood by the parties hereto that the Sub-recipient is an independent Sub-recipient and that neither its principals nor its employees, if any, are employees of the (City/Town/County) for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to section 39-71-401, MCA, the Sub-recipient has obtained, and will maintain at its expense for the duration of this Contract, coverage in a workers' compensation plan for its principals and employees for the services to be performed hereunder.

C. COMPENSATION. Neither the cost of architectural, engineering, or grant administrative services plus a percentage of that cost method nor the percentage of construction cost method will serve as the basis for compensating the sub-recipient for its services provided under this Contract.

For the satisfactory completion of the services to be provided under this Contract, the (City/Town/County) will pay the Sub-recipient a sum not to exceed \$_____ as in the manner set forth in the attached Exhibit ____, which by this reference is made a part of this contract. Each specific service the Sub-recipient will

provide under this contract, and the maximum amount that the (City/Town/County) will pay the Sub-recipient for each of these services, is set forth in the attached Exhibit ____.

The amount to be paid will be calculated according to the hourly billing rates for the various personnel as described in Exhibit _____. The Sub-recipient may submit monthly requests for payment, based on actual work performed, which must be accompanied by an itemized invoice describing the services furnished, the number of hours worked to accomplish each item, the amount being billed for each item, a description of any other eligible expenses incurred during the billing period, and the total amount being billed.

D. SCOPE OF SERVICES. The Sub-recipient will perform the following services:
(Here, or in an exhibit to the contract, explicitly and completely list the services and products the grant recipient expects of the Sub-recipient, including the timetable for completion of key tasks.)

It is understood and agreed by the parties that the services of the Sub-recipient do not include any of the following: the disbursement or accounting of funds distributed by the (City's/Town's/County's) financial officer, legal advice, fiscal audits or assistance with activities not related to the BSTF project.

1. The Sub-recipient will be responsible for all facets of the BSTF project as described in the ("County", "City" or "Town's") BSTF application.

2. During the term of this Agreement, the Sub-recipient will maintain reasonable records of its performance under this Agreement in a manner consistent with generally accepted accounting principles. The Sub-recipient will allow the (County, City or Town) or their authorized representatives access to these records at anytime during normal business hours. At the request of the (County, City or Town), the Sub-recipient will submit to the (County, City or Town), in the format prescribed by the (County, City or Town), status reports on its performance under this agreement.

3. If the Sub-recipient ceases to exist or an Event of Default occurs, all grant funding on hand and accounts or notes receivable related to this agreement, will revert to the (County, City or Town).

E. DURATION OF THE AGREEMENT. This Agreement will become effective upon authorization by the (County, City or Town Commissioners or Council Members) and the (name of economic development corporation) Board of Directors and approval by the Department.

This Agreement will terminate if either party fails to meet the conditions of this Agreement or if an Event of Default occurs.

F. ADMINISTRATION

2. For the purposes of implementing this Agreement, the (County, City or Town) will appoint a local government project liaison that will work with the Sub-recipient. The parties will meet as necessary to provide for the efficient and smooth implementation of this Agreement and the activities contained herein. This Agreement will run concurrently with the Management Plan, which governs the management of the initial BSTF grant, and will follow the Management Plan for issues related to the initial grant.

3. The Sub-recipient will comply with all applicable federal and state statutes and regulations.

4. The BSTF project will be audited on a yearly basis.

G. CONFLICT OF INTEREST. The Sub-recipient covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the BSTF project, which would conflict in any manner or degree with the performance of its services hereunder. The Sub-recipient further covenants that, in performing this Contract, it will employ no person who has any such interest.

H. DOCUMENTS INCORPORATED BY REFERENCE. THE (City's/Town's/County's) application to the Department for BSTF funding, dated _____, 20__, and all applicable federal and state

statutes and regulations are incorporated into this Contract by this reference and are binding upon the Sub-recipient.

I. OWNERSHIP AND PUBLICATION OF MATERIALS. All reports, information, data, and other materials prepared by the Sub-recipient pursuant to this Contract are the property of the (City/Town/County) and the Department which have the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any reuse without written verification or adaptation by the Architect/Engineer for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Architect/Engineer. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the (City/Town/County) and the Department.

J. REPORTS AND INFORMATION. The Sub-recipient will maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by the (City/Town/County) to assure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit purposes to the (City/Town/County) or its authorized representative, and will be retained for three years after receipt of final payment for the services rendered under this Contract unless permission to destroy them is granted by the (City/Town/County).

K. ACCESS TO RECORDS. It is expressly understood that the Sub-recipient's records relating to this Contract will be available during normal business hours for inspection by the (City/Town/County), the Department, and, when required by law, the Montana Legislative Auditor and Legislative Fiscal Analyst.

L. INDEMNIFICATION. The Sub-recipient waives any and all claims and recourse against the (County, City or Town), including the right of contribution of loss or damage to person or property arising from, growing out of, or in any way connected with or incidental to the Sub-recipient's performance of this Agreement, except claims arising from the concurrent or sole negligence of the (County, City or Town) or its officers, agents or employees. The Sub-recipient will indemnify, hold harmless, and defend the (County, City or Town) against any and all claims, demands, damages, costs, expenses, or liability arising out of the Sub-recipient's performance of this Agreement except for liability arising out of the concurrent or sole negligence of the (County, City or Town) or its officers, agents, or employees.

M. TERMINATION OF AGREEMENT. If any of the following events occur, the (County, City or Town) may, in its sole discretion, declare such event a default under this Agreement:

1. Any representation or warranty made by the Sub-recipient in this Agreement or in any request or certificate or other information furnished to the (County, City or Town) under this Agreement proves to have been incorrect in any material respect; or

2. The Sub-recipient fails in any material respect to carry out its obligations under its proposal to the (County, City or Town) for the assistance provided under this Agreement.

If the Sub-recipient fails to perform any of its duties under this Agreement or if any event of default occurs, the (County, City or Town) may declare the Sub-recipient to be in default and thereafter give the Sub-recipient written notice setting forth the action or inaction which constitutes the default and giving the Sub-recipient 45 days in which to correct the default. If the Sub-recipient fails to correct the default within 45 days of receipt of this notice, the (County, City or Town) may notify the Sub-recipient in writing that any amount that is payable under this Agreement is due and payable in full within 45 days and this Agreement is terminated.

It is agreed by the parties that the provisions of this Agreement provide for reasonable and sufficient notice to be given to the Sub-recipient in case of the Sub-recipient's failure to comply with any of its covenants and that this notice is sufficient for the Sub-recipient to rectify its actions or inactions of default.

The waiver by the (County, City or Town) of any default by the Sub-recipient does not constitute a waiver of a continuing breach or a waiver of a subsequent breach. Any agreement contrary to this Agreement is not binding upon either party unless it is in writing and signed by both parties.

N. CONSTRUCTION AND VENUE. This Agreement will be construed under and governed by the laws of the State of Montana. The (County, City or Town) and the Sub-recipient agree that performance of this Agreement is in the County of _____, State of Montana and that in the event of litigation concerning it, venue is in the District Court of the ____th Judicial District in and for the County of _____, Montana. This Agreement will be construed under and governed by the laws of the State of Montana.

O. ELIGIBILITY. The Sub-recipient certifies that the Sub-recipient's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in state assisted contracts.

This Sub-recipient Agreement has been approved by (name of County, City or Town) (board of commissioners or council members) and (name of nonprofit economic development corporation) Board of Directors.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed.

(Name of City, Town or County):

(Name of economic development corp.):

(Name of Chief Elected Official)

(Name of Authorized Signature)

Date

Date

Attest:

Attest:

(ATTACH ANY EXHIBITS HERE)

For Example:

Exhibit "A" – BSTF Grant Contract between the Department of Commerce & the City, Town or County

Exhibit "B" – Management Plan for the Project (between the City, Town or County and the Sub-recipient, as approved by the Department of Commerce)

Exhibit "C" – Schedule of Fees

APPENDIX C

**MONTANA DEPARTMENT OF COMMERCE
BIG SKY ECONOMIC DEVELOPMENT TRUST FUND**

SAMPLE MANAGEMENT PLAN (*Local Government Management*)

A. Administrative Structure

The following persons will have lead responsibility for administering the City, Town, County's FY xxxx Big Sky Economic Development Trust Fund (BSTF) grant program to facilitate an expansion of Name of Assisted Business.

Chief Elected Official, as the City, Town, County's chief elected official, will have responsibility for all official contacts with the Montana Department of Commerce (Department). The Chief Elected Official, and Council or Commissioners will have the ultimate authority and responsibility for the City, Town, County's FY xxxx implementation of the BSTF grant program to facilitate an expansion of Name of Assisted Business. The Chief Elected Official will approve and sign administrative documents, and approve all requests for payment to the BSTF program. The Council or Commissioners will approve all contracts and drawdown requests. The telephone number for the Chief Elected Official and Council or Commissioners is (406) xxx-xxxx.

1. Name, City, Town, County Fiscal Officer, will act as Finance Manager for the BSTF project and will be responsible for management of and record keeping for the BSTF funds and other funds involved in the financing of the business expansion for Name of Assisted Business.
2. Name, City, Town, County Clerk, will maintain all records for the project.
3. Name, City, Town, County Grants Administrator, will be the Project Manager. He will be the liaison between Name of Assisted Business and the Council or Commissioners, Local Government Attorney, and the Department. He/she will make appropriate recommendations and route all contract documents, required administrative documents, and drawdowns. On behalf of the Council or Commissioners, he/she will maintain the project files, be responsible for State and programmatic requirements and manage the administration and implementation of the BSTF project. He/she will be responsible for assisting the applicant with all aspects of managing the project, preparation of contracts, loan agreements, low-to-moderate income documentation and monitoring.
4. Name, City, Town, County Attorney, will review and advise the Council or Commissioners regarding any proposed contractual agreements associated with the BSTF project and will provide any other legal guidance as requested. The local government attorney will review and approve all loan, contracts and agreements and related documents. (Telephone: (406) xxx-xxxx).
5. Name, Title, for Name of Assisted Business will serve as the project representative for Name of Assisted Business.

B. Project Management

1. The Project Manager will be responsible for:
 - a. Ensuring that the Assistance Agreement between **Name of Local Government** and **Name of Assisted Business** is executed.
 - b. Preparing a Request for Payment Form for submittal to the Department.
 - c. Developing the contract with the Department and administering all requirements related to effective project start-up and implementation.
 - d. Preparation of the assistance agreement between the **City. Town, County** and **Name of Assisted Business**.
 - e. Establishing and maintaining complete and accurate project files and preparing all documentation and reports incidental to administration of the grant.
 - f. Reviewing all proposed project expenditures or requests for payment to ensure their propriety and proper allocation of expenditures to the BSTF project budget.
 - g. In cooperation with the **City. Town, County** Fiscal Officer, reviewing requests for payment to ensure compliance, processing payment requests and preparing drawdown requests for the BSTF, including the *Request for Payment Form* and the *Project Progress Report*.
 - h. Preparing all required performance reports and closeout documents for submittal to the **City. Town, County** for review and submittal to the BSTF Program.
 - i. Project liaison with **Name of Assisted Business**, the community and **Council or Commissioner** meetings to provide project status reports and representing the project at any other public meetings, as deemed necessary by the **Council or Commissioners**.
 - j. Project monitoring.
 - k. Public Relations, which includes acting as a contact person for persons interested in the project, preparing press releases, and disseminating project information.
2. The **City. Town, County** Attorney will be responsible for:
 - a. Reviewing all proposed contractual agreements for the BSTF program.
 - b. Ensuring that any agreements necessary between **Name of Assisted Business** and **Name of Local Government** are properly executed.

C. Financial Management

1. The Finance Manager's responsibilities will be as follows:

- a. Establishing the BSTF Program account and disbursing BSTF funds from that account based on claims and supporting documents approved by the Project Manager. Since the City. Town, County uses a non-interest bearing compensative balance for its general disbursements, a separate BSTF account is not necessary. The balance of BSTF funds in the City. Town, County account will not exceed \$5,000 for a period of more than three (3) days, and all BSTF funds drawn by the grantee will be expended for eligible costs within 15 days.
- b. Entering all project transactions into the City. Town, County's existing accounting system and preparing checks/warrants for approved expenditures.
- c. With the assistance of the Project Manager, preparing the *Request for Payment Form* to be submitted to the Department. All drawdown requests will be signed by two of the three following persons: two Council or Commissioner members and the City. Town, County Fiscal Officer. No expenditures will be made without the approval of the Council or Commissioners.
- d. With the assistance of the Project Manager, preparing the final financial reports for project closeout.

Original financial documents (claims with attached supporting documents) will be retained in the City. Town, County Clerk's office.

Monthly time sheets and daily project logs will be maintained by City. Town, County staff to document all time worked on the BSTF project.

SAMPLE MANAGEMENT PLAN (Project Managed by Third-Party Nonprofit)

In Fiscal Year xxxx, the Name of Local Government received a grant from the Big Sky Economic Development Trust Fund (BSTF) Program. The City. Town, County will enter into a Sub-Recipient Agreement with name of Local Development Organization (LDO) for administering the BSTF Project. This Management Plan is written to assure proper management of the BSTF project, which includes financial management of grant funds, compliance with State and federal statutes and requirements, timely start-up and completion of project activities.

A. ADMINISTRATIVE STRUCTURE**1. LOCAL GOVERNMENT GRANTEE**

- a. The following persons will have lead responsibility for administering the City. Town, County SFY xxxx BSTF grant on behalf of the City. Town, County to (Describe Activity Funded) for Name of Assisted Business .
- b. Name, Local Government Elected Official, as the City. Town, County's chief elected official, will have responsibility for all official contacts with the Montana Department of Commerce (Department). The Local Government Elected Official and Council or Commissioners will have the ultimate authority and responsibility for the implementation of the Name of Local Government's FY xxxx BSTF program for Economic Development to facilitate an expansion of Name of Assisted Business. The Local Government Elected Official will approve and sign administrative documents, designate the Environmental Certifying Officer and approve all requests for payment from the BSTF program. The Council or Commissioners will approve all contracts and drawdown requests. The telephone number for the Local Government Elected Official and Council or Commissioners (406) xxx-xxxx.
- c. Name, Local Government Attorney, will review any proposed contractual agreements associated with the BSTF Grant, advise the Council or Commissioners regarding the agreements, and provide any other legal guidance as requested. (Telephone: (406) xxx-xxxx.)
- d. Name, Local Government Clerk, will be responsible for maintaining records related to the management of the initial BSTF project funds for the Name of Local Government. (Telephone: (406) xxx-xxxx)
- e. Name, Local Government, Position (i.e. County Development Office), will be the liaison between the Local Development Organization (LDO) and the Council or Commissioner members and the Local Government Attorney. He will make appropriate recommendations and route all contract documents, administrative documents, and drawdowns as necessary. (Telephone: (406) xxx-xxxx)

2. Local Development Organization (LDO)

- a. To provide general technical assistance, coordination of funding sources, assurances of compliance with all applicable state requirements for the BSTF grant

program, the Name of Local Government has designated the Local Development Organization (LDO) as its Project Administrator. Local Development Organization (LDO) is a not-for-profit economic development organization located in Name of Local Government. The following Local Development Organization (LDO) personnel will be responsible for the project.

- b. Name, Executive Director, will be responsible for all official contacts with the Name of Local Government on behalf of Local Development Organization (LDO), keeping the Local Development Organization (LDO) Board of Directors apprised of project status, and entering agreements on behalf of Local Development Organization (LDO). (Telephone: (406) xxx-xxxx)
- c. Name, Project Manager, will be responsible for overall coordination of the BSTF Grant awarded to the Name of Local Government. He will establish and maintain complete and accurate project files, monitor all project activities for compliance with all applicable requirements, and supervise the project outreach, intake, application and project selection process. (Telephone: (406) xxx-xxxx).
- d. Name, Fiscal Officer, will be responsible for the fiscal management of the project, in coordination with the Project Manager and in accordance with the Local Development Organization (LDO) Fiscal Procedures Manual. He/she will assure compliance with all applicable federal, state and local requirements, keep all fiscal records and accounts for the Local Development Organization (LDO) assure coordination of all funding sources, review all project expenditures from the business, process pay requests, draft drawdown requests, and prepare all project closeout documents. (Telephone: (406) xxx-xxx).

B. PROJECT MANAGEMENT

- 1. The Name, Local Government, Position, will:
 - a. Prepare a request for payment to the Department.
 - b. Develop a BSTF contract between the City, Town, County and the Department.
 - c. Review, approve, and submit the BSTF drawdown requests, after preparation by Local Development Organization (LDO) and approval by the Council or Commissioners, to the BSTF Program, Business Resources Division, Montana Department of Commerce, and ensure disbursement of funds to the Local Development Organization (LDO) for administrative expenses
 - d. Review and approve all BSTF closeout documents.
- 2. As a subgrantee, the Project Administrator, Local Development Organization (LDO), is responsible for the following day to day project activities:
 - a. Assisting the Name of Local Government and the Department in developing the Name of Local Government contract with the Department that will address all requirements related to effective project start-up and implementation. This will

include preparation of all management agreements between the **Name of Local Government** and the Project Administrator.

- b. Establishing and maintaining complete and accurate project files and preparing all documentation and reports incidental to administration of the grant
- c. Reviewing all proposed project expenditures or requests for payment from the business to ensure their propriety and proper allocation of expenditures to the BSTF budget.
- d. In cooperation with the **Name of Local Government** project manager, processing quarterly payment requests and preparing drawdown requests to the Department, including the Request for Payment and Status of Funds Report and the Project Progress Report
- e. Preparing all required performance reports and closeout documents for submittal to Department and assisting the **Name of Local Government** auditors with the completion of the project's audit requirements
- f. Closing the BSTF project in a timely fashion in accordance with the project implementation schedule
- g. Monitoring the business's compliance with the requirements of the grant agreement including implementation of the project hiring and training plan, *and* submission of monthly financial statements
- h. Attending **Council or Commissioners** meetings to provide project status reports and representing the BSTF project at any other public meetings as deemed necessary by the **Council or Commissioners**

C. FINANCIAL MANAGEMENT

1. The **Name of Local Government** Clerk will be responsible for:

- a. Establishing a BSTF bank account and transferring BSTF funds from that account to the **Name of Local Government** treasury for disbursements, based on claims and supporting documents approved by the Project Manager and **Council or Commissioners**. Since the **City, Town, County** uses an interest bearing account for its general disbursements, a separate non-interest bearing account will be used for BSTF funds. Balances in that account will not exceed \$5,000 for a period of three days. Funds will be transferred to the **Local Development Organization (LDO)** account and the **Local Development Organization (LDO)** will disperse funds to the business
- b. Entering all project transactions into the **City, Town, County** existing accounting system and preparing warrants for approved expenditures.
- c. With the assistance of the Project Administrator, preparing the Request for Payment Form to be submitted to the Department. All drawdown requests will be signed by two of the three following persons: **(i.e. Mayor, Director of the County Development Office, President of the City Council)**.

- d. The (i.e. Project Administrator, the County Development Director and/or City Clerk) will review all proposed expenditures of BSTF funds and will prepare drawdown requests, which will be signed by the officials cited above. All disbursements will be made in accordance with the City. Town, County established claim review procedures. Before submitting the claim to the City. Town, County Clerk, the Project Administrator will attach a certification to each claim stating that the proposed expenditure is an eligible expense of the City. Town, County BSTF grant and consistent with the project budget
- e. With the assistance of the Project Administrator, preparing the final financial report for project closeout
- f. Financial record keeping will conform to the recommendations of the Department. The original financial documents (claims with all supporting documents attached) will be retained in the Name of Local Government offices.
- h. A separate fund for the project will be set up within the general ledger accounts at Local Development Organization (LDO). All BSTF activities including revenues, administrative expenditures, and payments will be segregated recorded, and reported in this fund and will be entitled "Name of Local Government BSTF Project Fund". The first drawdown from project activity funds will be requested from the Name of Local Government. Local Development Organization (LDO) will prepare the drawdown request and forward it to the City. Town, County. The City. Town, County will review the request in accordance with its normal claim review process, sign the request, and forward it to the Department. The loan closing date will be scheduled to coincide with receipt of funds in the Name of Local Government account to prevent interest earnings on cash held at either the Name of Local Government or Local Development Organization (LDO) before ultimate disbursement to Name of Assisted Business.
- i. Subsequent draw downs will consist of **administrative payments** from the Name of Local Government to Local Development Organization (LDO). **Administrative payments will consist of reimbursement for actual time and costs incurred (Exhibit "X")**. Local Development Organization (LDO) will prepare the BSTF drawdown and attach a copy of an interim expenditure report. The expenditure report is generated from Local Development Organization (LDO) automated accounting system and includes a detail for **actual monthly expenses**, project to date expenses, a budget for each line item expense, and the budget remaining for each line item. Upon review and approval, the Name of Local Government will forward the request to the Department. The Name of Local Government will reimburse Local Development Organization (LDO) upon receipt of funds from the Department.
- j. The BSTF project fund will be audited on a yearly basis in conjunction with Name of

Local Government's audit.

If **Local Development Organization (LDO)** ceases to exist or an event of default occurs, Program Income relating to the BSTF Grant, including funds on hand and accounts or notes receivable will revert to the **Name of Local Government**.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2007.

PROJECT ADMINISTRATOR:

Name, Title, Local Development Organization

Date

City, Town, County:

Name, Title of Elected Official

Date

Name of City, Town, County

SAMPLE COMPENSATION LANGUAGE

Presented below are various options the local government can use and/or modify for compensating the project manager or subrecipient for implementing and managing the initial BSTF loan(s).

Project Management

I. Option 1

The Subrecipient may submit requests for payments quarterly to the City, Town or County. **Requests for payment must be accompanied by a written narrative report that adequately describes and documents the work performed during the grant period relative to the Implementation Schedule.** Total payment for the services rendered under this Subrecipient Agreement for project management will not exceed five (5) percent of the total BSTF grant award.

Compensation for project administration services, including project start-up activities, implementation, and on-going monitoring and reporting, will be provided in installments, based on actual work performed. Payment will be based upon the completion of key components, as follows:

<u>ACTIVITY</u>	<u>ESTIMATED DATE</u>	<u>AMOUNT</u>
Complete startup	09/30/97	\$ X,XXX
Quarterly Monitoring	01/01/98 thru	\$ XX,XXX
Completion & Approval of Project	06/30/99	
Closeout Report	12/31/99	\$ X,XXX

II. Option 2

The Subrecipient may submit requests for payments quarterly to the City, Town or County. **Requests for payment must be accompanied by a written narrative report that adequately describes and documents the work performed during the grant period relative to the Implementation Schedule. Payments will consist of reimbursement for actual time and costs incurred.** Total payment for the services rendered under this Subrecipient Agreement for project management will not exceed five (5) percent of the total BSTF grant award.

An expenditure report will be generated from the (name of economic development corporation's) automated accounting system and will include detail for **actual quarterly expenses**, project-to-date expenses, a budget for each line item expense, and the budget remaining for each line item, as follows:

Line Item	Budgeted	Current Quarter	Expenses to Date	Remaining Budget
Personal Services	XX,XXX	0	0	\$XX,XXX
Office Supplies	X,XXX	0	0	\$X,XXX
Postage/Printing	XXX	0	0	\$ XXX
Telephone	X,XXX	0	0	\$X,XXX
Travel	X,XXX	0	0	\$X,XXX
Other	X,XXX	0	0	\$X,XXX
Total	\$XX,XXX	\$ 0	\$ 0	\$XX,XXX

Budget Narrative: Allows for the start-up activities, implementation, loan processing, and on-going monitoring and reporting.

Personal Services: Staff costs for salary and benefits, including a .15 FTE project manager, and a .1 FTE clerical support position

Office Supplies: Includes all project-related general office supply costs

Postage/Printing: Includes project-related copy and postage costs

Telephone: Includes project-related telephone costs

Travel: Includes project-related travel costs for staff

Other: Project-related legal, insurance, audit, accounting and training costs

APPENDIX D

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT ("Agreement") is made as of the (day) day of (month), (year), by and between (Name of Company) ("Company") and its affiliates and the Montana Department of Commerce ("Department") and its affiliates.

WHEREAS, the Department has requested and/or may request verbal and written information from the Company and its affiliates regarding the Company and certain of its affiliates and Project (including without limitation the proposed (Project Description) to be located in (City, Town, or County), Montana incident to discussions concerning one or more possible loan transactions or grants for the benefit of the Company. The Department will accept a copy of the Business Plan and any supporting documentation submitted by the Company.

NOW, THEREFORE, in consideration of the premises and the disclosure of such information, each Party hereby, intending to be legally bound, agrees to the following provisions:

1. The Company understands and agrees that, pursuant to the Montana Supreme Court's decision in *Great Falls Tribune v. Public Service Commission*, 319 Mont. 38, 82 P.3d 876 (2003), all documents filed with the Department by the Company are presumptively available for access by the public under the "right to know" provision of Article 2, Section 9 of the Montana Constitution. Under the decision, however, the presumption that all documents filed by the Company with the Department are public may be overcome by the proper showing, consistent with the court's decision.
2. If the Company submits documents or information to the Department that it considers confidential and wishes the documents or information to be withheld from public disclosure, it will identify which part of the documents or information it considers confidential at the time the documents or information are submitted. The Company will identify the confidential items through an affidavit that clearly states the facts upon which it believes the documents or information should be withheld from public disclosure. The stated facts must be specific enough so that reviewing authorities can clearly understand the nature and basis of the Company's claims to the right of confidentiality. A statement that all documents or information submitted by the Company are confidential, or other conclusory statements, will be ineffective to prevent public disclosure. The Company understands and agrees that the affidavit it submits is subject to public disclosure.
3. If individual documents or information are not specified as confidential or the affidavit is factually insufficient to support confidentiality, the Department will deem the documents or information submitted as subject to public disclosure.
4. The Department will take reasonable steps to protect documents or information designated as confidential and for which the Company submitted an affidavit clearly

stating the factual basis for the claim of confidentiality. Upon receiving a written request from a third party to review any confidential documents or information, the Department will notify the Company of the request in writing. The written notice provided by Department will enclose a copy of the third party request. The written notice and third party request will be sent by U.S. mail and by fax to the following addresses and fax numbers:

To (Name of Company): (Company Address)
Attention: (Name of Company Contact)
Fax #: (Fax Number)

with a copy to: (Address)
(If required) Attention: (Name of Contact)
Fax #: (Fax Number)

5. It is the responsibility of the Company upon receipt of the written notice from Department to take such action as is necessary to protect the documents or information from disclosure, including obtaining a court order protecting the documents or information from disclosure if necessary. If the Department does not receive an order from a court of competent jurisdiction ordering the Department to maintain confidentiality of the requested information or the Department is not notified of other arrangements made between the Company and the requesting party within 10 days from the date of the written notice by the Department to the Company of the third party request, the information will be disclosed to the requesting party, notwithstanding the affidavit. The Department will not assert the right of confidentiality for the Company in any court, whether sitting at law or in equity.

6. The Company agrees that in the event Department discloses documents or information in accordance with the provisions of this Agreement, the Company will not assert any claim, liability, demand, or cause of action against Department for a violation of any confidentiality interest in any documents or information that it has submitted to Department.

7. The Company agrees it will defend, indemnify, and save harmless the Department against and from any and all claims, liabilities, demands, causes of action, judgments, damages, and losses, including costs and attorneys' fees associated with any action for release of documents or information submitted to Department by the Company, whether such action is brought in the name of the Company or a third party.

8. The Big Sky Economic Development Trust Fund is a state program managed by the Department and is subject to audit and monitoring reviews by state officials. The Department is required by state regulations and laws to provide access to state audit and monitoring officials in order to document compliance with applicable state regulations and laws. In the event and to the extent access to information provided to the Department by the Company related to the Big Sky Economic Development Trust Fund program and otherwise subject to this Agreement is requested by state auditors, the Company agrees that the Department may disclose such information to such auditors, provided that (a) such information is used only by such auditors for the purposes set forth in the previous sentence, and for no other purposes whatsoever; and (b) such information in the possession of or otherwise disclosed to such auditors shall remain subject to the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the date first above written.

(Name of Company)

By: _____
Name: (Name)
Title: (Title)

MONTANA DEPARTMENT OF COMMERCE

By: _____
Name: (Name)
Title: Director

APPROVED BY:

Attorney for the Department

AFFIDAVIT

State of Montana)

: ss.

County of _____)

COMES NOW, (Company Official), being first duly sworn upon his oath, deposes and states as follows:

That he/she is the (Title) of (Company) and offers the following in support of (Company's) claim of confidentiality for information submitted in support of its application to the Montana Department of Commerce for Big Sky Economic Development Trust Fund funds:

1. I am the (Title) of (Company) and offer the following in support of (Company's) claim of confidentiality for information submitted to the Montana Department of Commerce.
2. (Company) claims that the document titled (Business Plan) is confidential and should be withheld from public disclosure as it contains information developed by (Company) concerning its business forecasts and assessments. This information is consistently maintained by (Company) as confidential business information and if disclosed could prejudice (Company's) competitive position and could result in financial losses to (Company).
3. (Company) claims that the documents titled (Financial Statements), including (List Here), are confidential and should be withheld from public disclosure as they contain information developed by (Company) concerning its financial condition, including product revenues and cost of production information and other confidential pricing information. This information is consistently maintained by (Company) as confidential business information and if disclosed could prejudice (Company's) competitive position and could result in financial losses to (Company).

(Company Official) _____

This instrument was acknowledged before me on the ____ day of (Month), 200_ by (Company Official).

(Seal)

Printed Name: _____
Notary Public for the State of _____
Residing at _____
My commission expires: _____

APPENDIX E

JOB CREATION REPORT

(Converted from Excel, please contact Program Staff for actual Excel version of report)

NAME OF ASSISTED BUSINESS

MONTANA DEPARTMENT OF COMMERCE

BIG SKY ECONOMIC DEVELOPMENT TRUST FUND

JOB CREATION REPORT: CURRENT EMPLOYEES SUMMARY

As of: *(Insert Award Date)*[illegible]

As of: ***(Insert Current Date)***

[illegible]

APPENDIX F

**MONTANA DEPARTMENT OF COMMERCE
BIG SKY ECONOMIC DEVELOPMENT TRUST FUND
JOB CREATION REPORT CERTIFICATION**

Company: _____

Contract #: _____

Date: _____

The attached information has been submitted in accordance with the terms of
Contract# MT-BSEDTF-1- - that states:

(Insert Contract Job Creation Language)

CERTIFICATION OF AUTHORIZED REPRESENTATIVE: I certify that the above
information and any attachments thereto are complete and accurate to the best
of my knowledge and belief.

X _____
Signature by Authorized Human Resources Personnel Date

Name: _____

Title: _____

APPENDIX G

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND

SAMPLE ASSISTANCE AGREEMENT

This Assistance Agreement is made and entered into this ____ day of **(Month, Year)**, by and between **(Name of Assisted Business)** and the **(Contractor)**.

RECITALS

WHEREAS the **(Contractor)**, has been awarded a grant by the Montana Department of Commerce (the Department) under the Big Sky Economic Development Trust Fund (BSTF) and;

WHEREAS **(Name of Assisted Business)** wishes to receive BSTF funds from the **(Contractor)** to expand a business enterprise within the **(Contractor)** jurisdictional area; and

WHEREAS, in consideration for the proposed assistance, **(Name of Assisted Business)** has agreed to create **(Number)** eligible full-time equivalent (FTE) positions at the project site located at **(Street Address of project location)**, within this Agreement time period. A full-time equivalent employee is an individual who is employed at a minimum, an average of thirty-five (35) working hours per week on an annual basis. Eligible FTE's shall include **net new** positions that were created on or after the effective date of this Agreement, which pay wages that meet or exceed **\$(Contact Program Staff for wage rate in County)** per hour. In addition, **(Name of Assisted Business)** has agreed to a total new investment, as specified in the BSTF application, at the project site located at **(Street Address of project location)**, which is equal to or greater than \$1 for every \$1 of BSTF assistance received, within this Agreement Term (as defined below). NOW, THEREFORE, in consideration of the mutual covenants and conditions herein, the parties agree as follows:

1. AMOUNT OF ASSISTANCE

The **(Contractor)** agrees under the terms and conditions of this Agreement, to reimburse the cost of **(Project Activity)** to **(Assisted Business)**. The total reimbursement to **(Assisted Business)** shall not exceed \$4,750 per eligible new position, not to exceed a total of **\$(Total Amount of BSTF award minus administration)** dollars for the entire Agreement Term.

2. PERIOD OF AGREEMENT

The Agreement will be in effect for the period commencing **(Date of Award)** and ending **(Date of Award Plus 2 years)**, unless otherwise terminated by law or in compliance with the terms of the Agreement, the "Term".

3. REQUEST FOR FUNDS

(Name of Assisted Business) will submit to the **(Contractor)** written requests for funds periodically as needed for the purposes of the assistance specified herein. With each of these requests **(Name of Assisted Business)** will provide a project status report showing actual and budgeted expenditures sufficient for the **(Contractor)** to determine the propriety of the proposed use of the funds requested and the use of matching funds.

4. CONDITIONS OF ASSISTANCE

- a. The **(Contractor)**'s obligation to make the assistance provided for hereby is contingent on the **(Contractor)**'s receipt of BSTF funds for this purpose from the Department.
- b. **(Name of Assisted Business)** will submit project status reports, with each request for funds, which document the creation of any **net new** positions and any investment made by **(Name of Assisted Business)** at the project site to the **(Contractor)**. The Job Creation Report, the form of which is attached as Exhibit A will be submitted to substantiate the qualifying job creation. Upon reasonable request, **(Name of Assisted Business)** shall provide substantiation of its investment in capital in excess of the required \$190,000 new investment at the project site.
- c. Upon receipt of reasonable advance notice, **(Name of Assisted Business)** shall permit representatives of the **(Contractor)**, the Department, Legislative Auditor, or their authorized agents access to inspect **(Name of Assisted Business)** facilities and records that are the subject of this assistance.
- d. This Agreement is non-assignable except upon the written consent of the **(Contractor)**. A request for consent to assignment must include a statement justifying the request and the certified financial statement of the proposed assignee. This statement must be current to within ninety (90) days of the request. The **(Contractor)** reserves the right to deny requests for assignment and to modify rates and terms of the Agreement and its exhibits as conditions of an assignment with Department approval.
- e. It is expressly understood that the proceeds of this assistance are designated solely for the purpose of reimbursing eligible documented training costs for the newly created eligible positions to **(Name of Assisted Business)**.
- f. **(Name of Assisted Business)** waives any and all claims and recourse against the **(Contractor)**, including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incident to this Agreement. Further, **(Name of Assisted Business)** will indemnify, hold harmless, and defend the **(Contractor)** against any and all claims, demands, damages, costs, expenses or liability arising out of the performance of **(Name of Assisted Business)**.

5. SECURITY

a. As security for the performance of this Agreement, **(Name of Assisted Business)** will guarantee to the **(Contractor)** that in the event that **(Name of Assisted Business)** ceases operations at the project site located at **(Street Address of project location)**, MT during the Term. **(Name of Assisted Business)** shall immediately reimburse the entire amount of the grant advanced hereunder up to that time to the **(Contractor)**. If **(Name of Assisted Business)** does not create the projected number of **net new** jobs that meet BSTF eligibility requirements, **(Name of Assisted Business)** agrees that it will reimburse the **(Contractor)** a prorated portion of the funds advanced based on the actual job creation documented.

6. EVENTS OF DEFAULT

If any of the following events occur, the **(Contractor)** may, in its sole discretion, declare such event a default under this Agreement.

a. Any representation or warranty made by **(Name of Assisted Business)** in this Agreement or in any request or certificate or other information furnished to the **(Contractor)** hereunder proves to have been incorrect in any material aspect.

b. **(Name of Assisted Business)** fails in any material respect to carry out its obligations under its proposal to the **(Contractor)** for the assistance provided hereunder.

In the event **(Name of Assisted Business)** fails to perform any of the covenants on its part or any event of default occurs as stated above, the **(Contractor)** may declare **(Name of Assisted Business)** to be in default and thereafter give **(Name of Assisted Business)** written notice setting forth the action or inaction which constitutes the default and giving **(Name of Assisted Business)** 45 days in which to correct the default. If **(Name of Assisted Business)** fails to correct the default within days of receipt of this notice, the **(Contractor)** may notify **(Name of Assisted Business)** in writing that the full balance upon this Agreement is then due and payable within 45 days.

It is agreed by the parties hereto that the provisions of this Agreement provide for reasonable and sufficient notice to be given to **(Name of Assisted Business)** in case of **(Name of Assisted Business)** failure to perform any of its covenants and that this notice is sufficient for **(Name of Assisted Business)** to rectify its actions or inactions of default.

Any waiver by the **(Contractor)** of any default by **(Name of Assisted Business)** does not constitute a waiver of a continuing breach or a waiver of a subsequent breach. Any agreement contrary to this Agreement is not binding upon each party hereto unless it is in writing and signed by both parties.

7. COMPLIANCE WITH LAWS

(Name of Assisted Business) must, in performance of work under this Assistance Agreement, fully comply with all applicable federal, state, or local laws, rules and

regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1967, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by **(Name of Assisted Business)** subjects subcontractors to the same provision. In accordance with Mont. Code Ann. § 49-3-207, **(Name of Assisted Business)** agrees that the hiring of persons to perform this Agreement will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this Agreement.

8. ADDITIONAL ASSURANCES

(Name of Assisted Business) will remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties with written approval of the **(Contractor)** for the undertaking of all or any part of the program with respect to which assistance is being provided under this Agreement. **(Name of Assisted Business)** will comply with all applicable laws rules and regulations of the **(Contractor)**, the State of Montana, and the United States Government and will comply with all lawful requirements of the **(Contractor)** so as to insure that this Agreement is carried out in accordance with the obligations and responsibilities of the **(Contractor)** to the State of Montana.

9. LITIGATION

(Name of Assisted Business) states that to the best of its knowledge and belief there are no suits or proceedings pending or threatened against or affecting it which, if adversely determined, would have a material adverse effect on its financial condition. In addition, to the knowledge of **(Name of Assisted Business)**, there are no proceedings by or before governmental commission, board, bureau or other administrative agency pending or, threatened against **(Name of Assisted Business)**.

10. DISPUTES

In the event that either party incurs legal expenses to enforce the terms and conditions of this Agreement, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses, whether the same are incurred with or without suit.

11. AVOIDANCE OF CONFLICT OF INTEREST

(Name of Assisted Business) covenants that no officer, member, agent, or employee of the **(Contractor)** who participates in the administration of this Agreement in other than a purely ministerial capacity will have any personal interest, real or apparent, in the proceeds of the assistance provided hereby. For purposes of this covenant an impermissible conflict of interest exists if the officer, member, agent, or employee; any member of his or her immediate family; his or her partner; or an organization which employs, or is about to employ, any of the foregoing has a financial or other interest in the proceeds hereof during his or her tenure or for one (1) year thereafter. **(Name of Assisted Business)** shall incorporate, or cause to be incorporated, in all contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

12. CONSTRUCTION AND VENUE

This Agreement is governed by the laws of Montana. The parties agree that any litigation concerning the Agreement must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

This Agreement is made and entered into on the ____ day of **(Month)** **(Year)**.

(Assisted Business Official: Type Name and Title)
(Name of Assisted Business)

(Local Government Official: Typed Name and Title)
(Contractor)

ATTEST:

Legal Review

EXHIBIT A

**MONTANA DEPARTMENT OF COMMERCE
BIG SKY ECONOMIC DEVELOPMENT TRUST FUND
JOB CREATION REPORT CERTIFICATION**

Company: _____

Contract #: _____

Date: _____

The attached information has been submitted in accordance with the terms of
Contract# MT-BSEDTF-1- _____ - _____ that states:

(Insert Contract Job Creation Language)

CERTIFICATION OF AUTHORIZED REPRESENTATIVE: I certify that the above
information and any attachments thereto are complete and accurate to the best
of my knowledge and belief.

X _____
Signature by Authorized Human Resources Personnel Date

Name: _____

Title: _____

JOB CREATION REPORT

(Converted from Excel, please contact Program Staff for actual Excel version of report)

NAME OF ASSISTED BUSINESS

MONTANA DEPARTMENT OF COMMERCE

BIG SKY ECONOMIC DEVELOPMENT TRUST FUND

JOB CREATION REPORT: CURRENT EMPLOYEES SUMMARY

As of: *(Insert Award Date)*

[illegible]

As of: ***(Insert Current Date)***

[illegible]

APPENDIX H

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF) CATEGORY II: PLANNING GRANTS

APPLICATION FORM

Please reference the Application Guidelines for a complete explanation of required application information.

I. APPLICANT INFORMATION - CERTIFIED REGIONAL DEVELOPMENT CORPORATION	
Name of CRDC or Eligible LDO	
Federal Tax ID Number	
Authorized Contract Signature (Full Name & Title)	
Daily Contact Person (Name & Title)	
Address	
County	
Phone Number	
Email Address	
Fax Number	

II. PROJECT SUMMARY INFORMATION	
Name of Project	
Eligible Activity (See Guidelines pg 18)	
Project Location	
Total Project Cost	
Amount of BSTF Funds Requested	
Total Matching Funds	
Name of Assisted Business (If Applicable)	
Total Number of New Jobs to be Created	
Senate and House Districts	

IV. PARTNER ORGANIZATION(S) / SUBRECIPIENTS (IF APPLICABLE)
Local economic development organizations may be involved in implementing and administering a project by sub-recipient agreement, if the eligible applicant agrees to such an arrangement. If a sub-recipient organization is involved in the project, applicant must submit sub-recipient agreement with the application. See Appendix I for a sample.

Name of Contract Person	
Address	
Phone Number	
Email Address	

Name of Contact Person	
Address	
Phone Number	
Email	

IV. BRIEF PROJECT SUMMARY
<i>Please provide a brief summary of this proposal which describes the nature of the proposed activity, the nature of the assisted business and what the BSTF financial assistance would be used for. Please specify if outside professional services will be procured. Please also provide any relevant historical information on this project or the region it would support:</i>
<i>Employee Benefits: Please list benefits and eligibility requirements provided by Assisted Business (if applicable)</i>

V. PROJECT ECONOMIC IMPACT STATEMENT
<i>Please provide a summary of the impact the project would have on the state, regional and community economy.</i>
<i>Please describe any negative impact of the project on the local, regional and/or state economy.</i>

VI. ATTACHMENTS

*Please attach the following information to your application.
See page 19 of the Guidelines.*

A. Project Description: Attachment # _____

B. Course of Action: Attachment # _____

C. Project Timeline: Attachment # _____

D. Sub-recipient Agreement (if applicable): Attachment # _____
Sample Form can be found in Appendix I

E. Total Project Cost Breakdown: Attachment # _____
Sample Form can be found in Appendix M

F. Project Budget Form: Attachment # _____
Please fill out the attached form found in Appendix K

G. Community Support: Attachment(s) # _____
Please attach letters of support from organizations or other businesses in the community.

H. Supporting Documentation: *Attach and Reference all additional supporting documentation.*

Attachment # _____	(Description)
Attachment # _____	(Description)
Attachment # _____	(Description)

VII. CERTIFICATION BY LOCAL GOVERNMENT AND BUSINESS

As the responsible authorized agents of **(Name of CRDC or eligible LDO)**, we hereby submit this Big Sky Economic Development Trust Fund Application.

The information presented in this application is, to the best of our knowledge, true, complete and accurately represents the proposed project. We understand that additional information and documentation may be required.

(Name of CRDC or LDO) will accept responsibility for management of the project and compliance with Big Sky Economic Development Trust Fund regulations.

Name

(typed):

Title (typed):

Authorized Representative

Signature:

X

Date:

EXHIBIT I

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND CATEGORY II

SAMPLE SUB-RECIPIENT AGREEMENT

THIS AGREEMENT is entered into this ____ day of ____, 20____, by (name of certified regional development corporation), herein referred to as the ("CRDC") and (name of economic development corporation), a nonprofit economic development corporation herein referred to as the "Sub-recipient."

WITNESSETH THAT:

WHEREAS, (name of certified regional development corporation) is the recipient of a Big Sky Economic Development Trust Fund (BSTF) Program by the Montana Department of Commerce, Business Resources Division herein referred to as "the Department," and

WHEREAS, the purpose of the grant is to (name activities) for the residents of (name of city, town, or county), and

WHEREAS, the CRDC, desires to sub-grant the BSTF funds to the Sub-recipient and engage the Sub-recipient to (name activities) on the CRDC's behalf, and

WHEREAS, the Department has required the CRDC to enter into a Sub-recipient agreement with the Sub-recipient specifying the terms and conditions of the CRDC's delegation of certain BSTF responsibilities to the Sub-recipient, and

WHEREAS, the parties to this Agreement understand that neither of them has in any way, expressly or impliedly, abrogated any of its individual powers, and further agree that this Agreement does not create any new organization or legal entity.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set out in this Agreement, the parties agree as follows:

A. SPECIAL PROVISIONS. The CRDC agrees, under the terms and conditions of this Agreement, to sub-grant BSTF funds for (name of activities) to the Sub-recipient.

B. INDEPENDENT SUB-RECIPIENT. It is understood by the parties hereto that the Sub-recipient is an independent Sub-recipient and that neither its principals nor its employees, if any, are employees of the CRDC for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to section 39-71-401, MCA, the Sub-recipient has obtained, and will maintain at its expense for the

duration of this Contract, coverage in a workers' compensation plan for its principals and employees for the services to be performed hereunder.

C. COMPENSATION. Neither the cost of architectural, engineering, or grant administrative services plus a percentage of that cost method nor the percentage of construction cost method will serve as the basis for compensating the sub-recipient for its services provided under this Contract.

For the satisfactory completion of the services to be provided under this Contract, the CRDC will pay the Sub-recipient a sum not to exceed \$_____ as in the manner set forth in the attached Exhibit _____, which by this reference is made a part of this contract. Each specific service the Sub-recipient will provide under this contract, and the maximum amount that the CRDC will pay the Sub-recipient for each of these services, is set forth in the attached Exhibit _____.

The amount to be paid will be calculated according to the hourly billing rates for the various personnel as described in Exhibit _____. The Sub-recipient may submit monthly requests for payment, based on actual work performed, which must be accompanied by an itemized invoice describing the services furnished, the number of hours worked to accomplish each item, the amount being billed for each item, a description of any other eligible expenses incurred during the billing period, and the total amount being billed.

D. SCOPE OF SERVICES. The Sub-recipient will perform the following services: *(Explicitly and completely list the services and products the grant recipient expects of the Sub-recipient, including the timetable for completion of key tasks.)*

It is understood and agreed by the parties that the services of the Sub-recipient do not include any of the following: the disbursement or accounting of funds distributed by the CRDC's financial officer, legal advice, fiscal audits or assistance with activities not related to the BSTF project.

1. During the term of this Agreement, the Sub-recipient will maintain reasonable records of its performance under this Agreement in a manner consistent with generally accepted accounting principles. The Sub-recipient will allow the CRDC their authorized representatives access to these records at anytime during normal business hours. At the request of the CRDC, the Sub-recipient will submit to the CRDC, in the format prescribed by the CRDC, status reports on its performance under this agreement.

2. If the Sub-recipient ceases to exist or an Event of Default occurs, all grant funding on hand and accounts or notes receivable related to this agreement, will revert to the CRDC.

E. DURATION OF THE AGREEMENT. This Agreement will become effective upon authorization by the (name of certified regional development corporation) Board of Directors and the (name of economic development corporation) Board of Directors and approval by the Department.

This Agreement will terminate if either party fails to meet the conditions of this Agreement or if an Event of Default occurs.

F. ADMINISTRATION

For the purposes of implementing this Agreement, the CRDC will appoint a project liaison that will work with the Sub-recipient. The parties will meet as necessary to provide for the efficient and smooth implementation of this Agreement and the activities contained herein. This Agreement will run concurrently with the Management Plan, which governs the management of the initial BSTF grant, and will follow the Management Plan for issues related to the initial grant.

G. CONFLICT OF INTEREST. The Sub-recipient covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the BSTF project, which would conflict in any manner or degree with the performance of its services hereunder. The Sub-recipient further covenants that, in performing this Contract, it will employ no person who has any such interest.

H. DISPOSITION OF FUNDS ACQUIRED. Upon the expiration of the Agreement, the Sub-recipient will transfer to the CRDC any BSTF funds on hand at the time of expiration and any accounts receivable attributable from the use of BSTF funds.

I. DOCUMENTS INCORPORATED BY REFERENCE. The CRDC's application to the Department for BSTF funding, dated _____, 20__, and all applicable federal and state statutes and regulations are incorporated into this Contract by this reference and are binding upon the Sub-recipient.

J. OWNERSHIP AND PUBLICATION OF MATERIALS. All reports, information, data, and other materials prepared by the Sub-recipient pursuant to this Contract are the property of the CRDC and the Department which have the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any reuse without written verification or adaptation by the Architect/Engineer for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Architect/Engineer. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the CRDC and the Department.

K. REPORTS AND INFORMATION. The Sub-recipient will maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by the CRDC to assure proper accounting for all project funds. These records will be made available for audit purposes to the CRDC or its authorized representative, and will be retained for three years after receipt of final payment for the

services rendered under this Contract unless permission to destroy them is granted by the CRDC.

L. ACCESS TO RECORDS. It is expressly understood that the Sub-recipient's records relating to this Contract will be available during normal business hours for inspection by the CRDC, the Department, and, when required by law, the Montana Legislative Auditor and Legislative Fiscal Analyst.

M. INDEMNIFICATION. The Sub-recipient waives any and all claims and recourse against the CRDC, including the right of contribution of loss or damage to person or property arising from, growing out of, or in any way connected with or incidental to the Sub-recipient's performance of this Agreement, except claims arising from the concurrent or sole negligence of the CRDC or its officers, agents or employees. The Sub-recipient will indemnify, hold harmless, and defend the CRDC against any and all claims, demands, damages, costs, expenses, or liability arising out of the Sub-recipient's performance of this Agreement except for liability arising out of the concurrent or sole negligence of the CRDC or its officers, agents, or employees.

N. TERMINATION OF AGREEMENT. If any of the following events occur, the CRDC may, in its sole discretion, declare such event a default under this Agreement:

1. Any representation or warranty made by the Sub-recipient in this Agreement or in any request or certificate or other information furnished to the CRDC under this Agreement proves to have been incorrect in any material respect; or
2. The Sub-recipient fails in any material respect to carry out its obligations under its proposal to the CRDC for the assistance provided under this Agreement.

If the Sub-recipient fails to perform any of its duties under this Agreement or if any event of default occurs, the CRDC may declare the Sub-recipient to be in default and thereafter give the Sub-recipient written notice setting forth the action or inaction which constitutes the default and giving the Sub-recipient 45 days in which to correct the default. If the Sub-recipient fails to correct the default within 45 days of receipt of this notice, the CRDC may notify the Sub-recipient in writing that any amount that is payable under this Agreement is due and payable in full within 45 days and this Agreement is terminated.

It is agreed by the parties that the provisions of this Agreement provide for reasonable and sufficient notice to be given to the Sub-recipient in case of the Sub-recipient's failure to comply with any of its covenants and that this notice is sufficient for the Sub-recipient to rectify its actions or inactions of default.

The waiver by the CRDC of any default by the Sub-recipient does not constitute a waiver of a continuing breach or a waiver of a subsequent breach. Any agreement contrary to this Agreement is not binding upon either party unless it is in writing and signed by both parties.

O. CONSTRUCTION AND VENUE

This Agreement will be construed under and governed by the laws of the State of Montana. The CRDC and the Sub-recipient agree that performance of this Agreement is in the County of _____, State of Montana and that in the event of litigation concerning it, venue is in the District Court of the _____th Judicial District in and for the County of _____, Montana. This Agreement will be construed under and governed by the laws of the State of Montana.

P. ELIGIBILITY. The Sub-recipient certifies that the Sub-recipient's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in State of Montana contracts.

This Sub-recipient Agreement has been approved by (name of certified regional development corporation) Board of Directors and (name of nonprofit economic development corporation) Board of Directors.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed.

(Name of certified regional development corporation)

(Name of Executive Director)

Date

Attest:

(Name of economic development corporation)

(Name of Executive Director)

Date

Attest:

(ATTACH ANY EXHIBITS HERE)

For Example:

Exhibit "A" – Management Plan for the Project (between the CRDC and the Sub-recipient (as approved by the Department of Commerce).

Exhibit "B" – Schedule of Fees

APPENDIX J

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND PROGRAM CATEGORY II: PLANNING GRANTS

SAMPLE MANAGEMENT PLAN (*Project Managed by Third-Party Nonprofit*)

In State Fiscal Year (SFY) xxxx, Name of Certified Regional Development Corporation (CRDC) was certified by the Montana Department of Commerce (Department) as a Certified Regional Development Corporation (CRDC) and received a grant from the Big Sky Economic Development Trust Fund (BSTF) Program that will be granted to Name local economic development organization (LDO). The Name of CRDC will enter into a Sub-Recipient Agreement with Name of LDO for administering and implementing the BSTF Project. This Management Plan is written to assure proper management of the BSTF Project, which includes financial management of grant funds, compliance with State requirements, and the timely start-up and completion of project activities.

A. ADMINISTRATIVE STRUCTURE

1. CRDC GRANTEE

- a. Name of CRDC Official will have lead responsibility for administering the BSTF Grant on behalf of the Name of CRDC to (Describe Activity Funded). For the purposes of this agreement the BSTF Grant for the above-described activities will be referred to as the Name of Project BSTF Project.
- b. Name of CRDC Official, as the Name of CRDC, Executive Director, will have responsibility for all official contacts with the Department. Name of CRDC, Executive Director and Name of CRDC Board of Directors will have the ultimate authority and responsibility for the implementation of the Name of Project BSTF Project. The Name of CRDC, Executive Director will approve and sign administrative documents and approve all requests for payment from the BSTF program. The Name of CRDC Board of Directors will approve all contracts and drawdown requests. The telephone number for the Name of CRDC Official is (406) xxx-xxxx.
- c. Name of CRDC Official, Attorney, will review any proposed contractual agreements associated with the BSTF Grant, advise the Name of CRDC Board of Directors regarding the agreements, and provide any other legal guidance as requested. (Telephone: (406) xxx-xxxx.)

- d. **Name of CRDC Official**, Fiscal Officer, will be responsible for maintaining records related to the management of the **Name of Project** BSTF Grant Funds for the **Name of CRDC**. (Telephone: (406) **xxx-xxxx**)
- e. **Name of CRDC Official**, will be the liaison between the **Name of LDO**. He/She will make appropriate recommendations and route all contract documents, administrative documents, and draw-downs as necessary. (Telephone: (406) **xxx-xxxx**)

2. LOCAL ECONOMIC DEVELOPMENT ORGANIZATION

- a. To provide general technical assistance, coordination of funding sources, assurances of compliance with all applicable state requirements for the BSTF program, the **Name of LDO** has designated the **Name of LDO Official** as its Project Administrator. **Name of LDO** provides economic development and business assistance services to, and which the **Name of Project** BSTF Project will benefit, the **Name of Local Government**. **Name of LDO Official** will be responsible for the **Name of Project** BSTF Project
- b. **Name of LDO Official, Executive Director**, will be responsible for all official contacts with the **Name of CRDC** on behalf of **Name of LDO**, keeping the **Name of LDO** Board of Directors apprised of project status, and entering agreements on behalf of **Name of LDO**. (Telephone: (406) **xxx-xxxx**)
- c. **Name of LDO Official**, Project Manager, will be responsible for overall coordination of the BSTF Grant awarded to the **Name of CRDC**. He/She will establish and maintain complete and accurate project files, monitor all project activities for compliance with all applicable requirements, and supervise the project outreach, intake, application and all project processes. (Telephone: (406) **xxx-xxxx**).
- d. **Name of LDO Official**, Fiscal Officer, will be responsible for the fiscal management of the project, in coordination with the Project Manager and in accordance with the **Name of LDO** established Fiscal Procedures. He/she will assure compliance with all applicable state and local requirements, keep all fiscal records and accounts for the **Name of LDO** assure coordination of all funding sources, review all project expenditures, process pay requests, draft drawdown requests, and prepare all project closeout documents. (Telephone: (406) **xxx-xxx**).

B. PROJECT MANAGEMENT

- 1. The **Name of CRDC Official**, will:
 - a. Prepare a request for release of funds to the Department

- b. Develop a BSTF contract between the Name of CRDC and the Department
 - c. Review, approve, and submit the BSTF drawdown requests, after preparation by Name of LDO and approval by the Name of CRDC, Board of Directors to the BSTF Program, Business Resources Division, Montana Department of Commerce, and ensure disbursement of funds to the Name of LDO
 - d. Review and approve all BSTF closeout documents
2. As a subgrantee, the Project Administrator, Name of LDO, is responsible for the following day to day project activities:
- a. Assisting the Name of CRDC and the Department in developing the Name of LDO contract with the Department that will address all requirements related to effective project start-up and implementation. This will include preparation of all management agreements between the Name of LDO and the Name of CRDC.
 - b. Establishing and maintaining complete and accurate project files and preparing all documentation and reports incidental to administration of the grant
 - c. Reviewing all proposed project expenditures to ensure their propriety and proper allocation of expenditures to the project budget
 - d. In cooperation with the Name of CRDC project manager, processing quarterly payment requests and preparing drawdown requests to the Department, including the Request for Payment and the Project Progress Report
 - e. Preparing all required performance reports and closeout documents for submittal to the Department and assisting auditors with the completion of any project audit requirements
 - f. Closing the Name of Project BSTF Project in a timely fashion in accordance with the project implementation schedule
 - g. Attending Name of CRDC Board of Directors meetings to provide project status reports and representing the Name of Project BSTF Project at any other public meetings as deemed necessary by the Name of CRDC Board of Directors

If Name of LDO ceases to exist or an event of default occurs, BSTF Program funds relating to the BSTF Grant will revert to the Name of CRDC.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2007.

PROJECT ADMINISTRATOR:

Name, Title
Name of LDO

Date

Name of Certified Regional Development Corporation:

Name, Title
Name of Certified Regional Development Corporation

Date

BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF) BUDGET FORM

SECTION I - APPLICANT INFORMATION		
Contract # MT-BSEDTF- - -	TAX ID#	DATE
NAME AND ADDRESS OF APPLICANT	ELECTRONIC PAYMENT INFORMATION FINANCIAL INSTITUTION: ROUTING NUMBER: ACCOUNT NUMBER:	
SECTION II: FINANCIAL INFORMATION		
Budget Line Item	Proposed Project Budget	Approved Budget
1. Professional Services		
2. Personnel		
3. Legal		
4. Travel		
5. Supplies		
6. Telephone		
7. Printing / Postage		
8. Other (Please Specify)		
9. TOTAL GRANT BUDGET		
REMARKS		
SECTION III: APPLICANT CERTIFICATION		
CERTIFICATION OF AUTHORIZED REPRESENTATIVE: I certify that the above information and any attachments thereto are complete and accurate to the best of my knowledge and belief.		
X		
SIGNATURE	NAME AND TITLE	DATE
SECTION IV: DOC CERTIFICATION		
Expenditures are reasonable & appropriate _____	Approved by:	
Financial numbers & signatures are correct _____	Title:	
Administration does not exceed allowable amount _____	Date:	

APPENDIX L

BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF) REQUEST FOR PAYMENT FORM

SECTION I: APPLICANT INFORMATION					
CONTRACT # MT-BSEDTF- - -		DATE		TOTAL AMOUNT REQUESTED	
NAME & ADDRESS OF GRANTEE		FINANCIAL INSTITUTION: ROUTING NUMBER: ACCOUNT NUMBER:			
SECTION II: FINANCIAL INFORMATION					
Budget Line Item	Approved Budget <small>*INDICATES AMENDMENTS</small>	Current Amount Requested	Drawn	Requested, not Received	Balance
1. Professional Services					
2. Personnel					
3. Legal					
4. Travel					
5. Supplies					
6. Telephone					
7. Printing / Postage					
8. Other (Please Specify)					
9. TOTAL GRANT BUDGET					
SECTION III: APPLICANT CERTIFICATION					
CERTIFICATION OF AUTHORIZED REPRESENTATIVE: I certify that the above information and any attachments thereto are complete and accurate to the best of my knowledge and belief.					
X					
SIGNATURE		NAME AND TITLE		DATE	
SECTION IV: DEPARTMENT OF COMMERCE CERTIFICATION					
Expenditures are reasonable and appropriate ____			Approved by: Title: Date:		
Financial numbers & signatures are correct ____					
Administration does not exceed allowable amount ____					

APPENDIX M

TOTAL PROJECT COST BREAKDOWN					
Uses of Funds: Provide a description of each activity that will need to be undertaken in order to implement the project (use of funds) and specify which of the entities involved will be responsible for implementing that activity, the estimated cost of the activity, and who developed the cost estimate.					
Use of Funds					
Activity	Entity	Cost	Estimator	Timeline (Mo/Yr)	
TOTAL		\$0			
<i>Activity: Administration, Architecture, Engineering, Construction, Equipment, Working Capital, Employee Training, etc.</i> <i>Entity: Local Government, Business, CRDC, etc.</i> <i>Estimator: Appraiser, Engineer, Architect, Business, Local Government, Training Provider, CRDC, etc.</i>					
Matching Funds Summary					
Provide project cost summary source, amount, status, terms, use of all funds to be utilized in completing the project. List cash and in-kind contributions separately.					
Source of Funds			Loan Terms (if applicable)		Use of Funds
Source	Amount	Status	APR %	Term	Payment
					Activity
	\$0				\$0
<i>Source: Conventional Bank Loan (CBL), Equity, Local RLF, State (BSTF, CDBG, etc.), Federal (EDA, USDA-RD, etc.)</i> <i>Status: Proposed, Requested, or Approved</i> *If approved, attach and reference approval documentation					
Approval Documentation Attachment #					

APPENDIX N

PROFESSIONAL SERVICES CONTRACT

This Contract is entered into this ____th day of _____, 20__, by and between the (name of certified regional development corporation), herein referred to as the ("CRDC") and (name of Professional Services Contractor), (Contractor address), herein referred to as the "Contractor," Witnesseth:

WHEREAS, the Montana Department of Commerce, herein referred to as "the Department," has awarded the ("CRDC") grant funds under the Montana Big Sky Economic Development Trust Fund (BSTF) for purposes of (name activities); and

WHEREAS, the ("CRDC") desires to engage the Contractor to render certain services related to the administration of the above described project; and

WHEREAS, the ("CRDC") has complied with state and federal procurement requirements regarding the selection of contractors; and

WHEREAS, the ("CRDC") desires to enter into an agreement with the Contractor as hereinafter provided to assure the effective management of the project;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. EMPLOYMENT OF CONTRACTOR. The ("CRDC") agrees to engage the Contractor, and the Contractor agrees to provide the services as outlined in the service order attached as Exhibit ____.
2. INDEPENDENT CONTRACTOR. It is understood by the parties hereto that the Contractor is an independent contractor and that neither its principals nor its employees, if any, are employees of the ("CRDC") for purposes of tax, retirement system, or social security (FICA) withholding. It is further understood that pursuant to section 39-71-401, MCA, the Contractor has obtained, and will maintain at its expense for the duration of this Contract, coverage in a workers' compensation plan for its principals and employees for the services to be performed hereunder.
3. LIAISON. The ("CRDC")'s designated liaison with the Contractor is (name of CRDC liaison). The Contractor's designated liaison with the ("CRDC") is (name of Contractor's liaison).
4. EFFECTIVE DATE AND TIME OF PERFORMANCE. This Contract takes effect on (Date). The services to be performed by the Contractor will be completed no later than (Date).

5. SCOPE OF SERVICES. The Contractor will perform the services as outlined in the Service Order attached as Exhibit ____.

It is understood and agreed by the parties that the services of the Contractor do not include any of the following: the disbursement or accounting of funds distributed by the ("CRDC")'s financial officer, legal advice, fiscal audits or assistance with activities not related to the project.

6. COMPENSATION.

For the satisfactory completion of the services to be provided under this Contract, the ("CRDC") will pay the Contractor a sum not to exceed \$(*dollar amount*) as in the manner set forth in the attached Exhibit ____, which by this reference is made a part of this contract. Each specific service the Contractor will provide under this contract, and the maximum amount that the ("CRDC") will pay the Contractor for each of these services, is set forth in the attached Exhibit _____. The Contractor may submit monthly requests for payment, based on actual work performed, which must be accompanied by an itemized invoice describing the services furnished, the number of hours worked to accomplish each item, the amount being billed for each item, a description of any other eligible expenses incurred during the billing period, and the total amount being billed.

7. CONFLICT OF INTEREST. The Contractor covenants that it presently has no interest and will not acquire any interest, direct or indirect, in the BSTF project which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that, in performing this Contract, it will employ no person who has any such interest.

8. MODIFICATION AND ASSIGNABILITY OF CONTRACT. This Contract contains the entire agreement between the parties, and no statements, promises, or inducements made by either party, or agents of either party, which are not contained in the written Contract, are valid or binding. This Contract may not be enlarged, modified or altered except upon written agreement signed by both parties hereto. The Contractor may not subcontract or assign its rights, including the right to compensation, or duties arising hereunder without the prior written consent of the ("CRDC"). Any subcontractor or assignee will be bound by all of the terms and conditions of this contract.

9. CONDITIONAL AGREEMENT. It is expressly understood by the parties hereto that this Contract is dependent and conditioned upon the receipt by the funds from the Department and that in the event that said funds are not provided, the ("CRDC") incurs no responsibilities or liabilities under this Contract.

10. TERMINATION OF CONTRACT. This Contract may be terminated as follows:

- (a) Termination due to loss of funding. This Contract will terminate, in whole or in part, at the discretion of the ("CRDC") in the event that the Department

reduces or terminates payments under the BSTF Program so as to prevent the ("CRDC") from paying the Contractor with grant funds. In this event, the ("CRDC") will give the Contractor advance written notice which sets forth the effective date of the termination and explain that the termination is due to a loss or reduction of the grant.

(b) Termination for cause.

- (i) If, at any time before the date of completion, one of the parties determines that the other party has failed to comply with any of the terms and conditions of this Contract, the aggrieved party may give notice, in writing, to the defaulting party of any deficiencies claimed. The notice will be sufficient for all purposes if it describes the default in general terms. If the defaulting party fails to cure and correct all defaults claimed within a reasonable period to be specified in the notice, the aggrieved may, with no further notice, declare this Contract to be terminated in whole or in part.
- (ii) If the Contractor is the defaulting party, it will thereafter be entitled to receive payment for those services satisfactorily performed to the date of termination less the amount of reasonable damages suffered by the ("CRDC") by reason of the Contractor's failure to comply with the contract's terms and conditions.
- (iii) If the ("CRDC") is the defaulting party it will pay the Contractor for those services satisfactorily performed to the date of termination plus the amount of reasonable damages suffered by the Contractor by reason of the ("CRDC")'s failure to comply with the contract's terms and conditions.
- (iv) Notwithstanding the above, the defaulting party is not relieved of liability to the aggrieved party for damages sustained by the aggrieved party by virtue of any breach of this contract.
- (v) If the Contractor is the defaulting party, the ("CRDC") may withhold any payments to the Contractor for purposes of setoff until the exact amount of damages due the ("CRDC") from the Contractor is determined.

11. DOCUMENTS INCORPORATED BY REFERENCE. The ("CRDC")'s application to the Department for funding, dated March 8, 2006, and all applicable federal and state statutes and regulations are incorporated into this Contract by this reference and are binding upon the Contractor.

12. EQUAL EMPLOYMENT OPPORTUNITY. Any hiring of employees by the Contractor under this Contract will be on the basis of merit and qualification, and the Contractor will not discriminate against any person on the basis of race, color, religion, creed, sex, national origin, age, disability, marital status, or

political belief. As used herein, "qualifications" means qualifications that are generally related to competent performance of the particular occupational task.

13. OWNERSHIP AND PUBLICATION OF MATERIALS. All reports, information, data, and other materials prepared by the Contractor pursuant to this Contract are the property of the ("CRDC") and the Department which have the nonexclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any reuse without written verification or adaptation by the Contractor for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Contractor. No material produced in whole or in part under this Contract may be copyrighted or patented in the United States or in any other country without the prior written approval of the ("CRDC") and the Department.
14. REPORTS AND INFORMATION. The Contractor will maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Contract and such other records as may be deemed necessary by the ("CRDC") to assure proper accounting for all project funds.
15. ACCESS TO RECORDS. It is expressly understood that the Contractor's records relating to this Contract will be available during normal business hours for inspection by the ("CRDC"), the Department and, when required by law, the Montana Legislative Auditor and Legislative Fiscal Analyst.
16. PLACE OF PERFORMANCE, CONSTRUCTION, AND VENUE. The parties understand and agree that performance of this contract is in the Great Northern Development Corporation region and that in the event of litigation concerning it, venue is the 17th Judicial District in and for the County of Roosevelt, State of Montana.

This Contract will be construed under and governed by the laws of the State of Montana.

17. INDEMNIFICATION. The Contractor waives any and all claims and recourse against the ("CRDC"), including the right of contribution for loss and damage to persons or property arising from, growing out of, or in any way connected with or incidental to the Contractor's performance of this contract except for liability arising out of concurrent or sole negligence of the ("CRDC") or its officers, agents or employees. Further, the Contractor will indemnify, hold harmless, and defend the ("CRDC") against any and all claims, demands, damages, costs, expenses or liability arising out of the Contractor's performance of this Contract except for liability arising out of the concurrent or sole negligence of the ("CRDC") or its officers, agents or employees.

18. LEGAL FEES. In the event either party incurs legal expenses to enforce the terms and conditions of this Contract, the prevailing party is entitled to recover reasonable attorney's fees and other costs and expenses, whether the same are incurred with or without suit.
19. ELIGIBILITY. The Contractor certifies that the Contractor's firm and the firm's principals are not debarred, suspended, voluntarily excluded, or otherwise ineligible for participation in State of Montana assisted contracts.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on

the _____ day of _____.

CONTRACTOR

*(CERTIFIED REGIONAL DEVELOPMENT
CORPORATION NAME)*

BY: _____
Contractor

BY: _____
Official Representative of the ("CRDC")

DATE: _____

DATE: _____

Exhibits

Exhibit A: Scope of Services

(Provide exhibit and list details of scope of services)

Exhibit B: Payment Schedule

(Provide exhibit listing details of payment schedule)